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Presidential Documents

Title 3—

The President

Executive Order 12608 of September 9, 1987

Elimination of Unnecessary Executive Orders and Technical Amendments to Others

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to eliminate certain Executive Orders that are no longer necessary, and to make technical amendments in others to correct outdated agency references or obsolete legal citations, it is hereby ordered as follows:

Section 1. The following Executive Orders are revoked:

8744	Authorizing certain employees of the Government to acquire a classified civil service status
10880	Permitting certain employees to be given career or career conditional appointments
11377	Providing for Tariff Commission reports regarding the estimated consumption of certain brooms
11911	Providing for preservation of endangered species
12034	Providing for the appointment of former ACTION cooperative volunteers to the civilian career service
12295	Extending nuclear cooperation with EURATOM
12426	Establishing the President's Advisory Committee on Women's Business Ownership

Notwithstanding the revocation of Executive Orders Nos. 8744, 10880, and 12034, benefits already conferred under these Executive Orders before revocation shall not be affected.

Sec. 2. Each of the Executive Orders, as amended, listed in this section, and any other order that relates to functions or areas of responsibility delegated to the Office of Management and Budget, are amended by deleting the words "Bureau of the Budget" wherever they occur and inserting in lieu thereof "Office of Management and Budget", and by deleting the word "Bureau" and inserting in lieu thereof "Office" wherever the word "Bureau" is used as a reference to the Office of Management and Budget:

8248	10903	11044
9830	11012	11047
10582	11030	11060
10624	11034	11140
		11480

Sec. 3. Executive Order No. 9979 is amended by revoking paragraph 1 and deleting the "2." introducing the remaining paragraph.

Sec. 4. Executive Order No. 10289, as amended, is further amended as follows:

(a) In Section 1(c), by deleting the words "section 2 of the Act of August 18, 1914, c. 256, 38 Stat. 699 (46 U.S.C. 82)," and inserting in lieu thereof "section 1 of the Act of August 26, 1985, Public Law 98–89, 97 Stat. 510 (46 U.S.C. 3101);"

and by deleting the words "survey, inspection, and measurement of" and inserting in lieu thereof "the inspection of."

(b) In Section 1(d), by deleting the words "(46 U.S.C. 104)," and inserting in lieu thereof "(46 U.S.C. Appendix 104),";

(c) In Section 1(e), by deleting the words "(46 U.S.C. 134)," and inserting in lieu thereof "(46 U.S.C. Appendix 134),";

(d) In Section 1(f), by deleting the words "(46 U.S.C. 141),", "(46 U.S.C. 121)," and "(46 U.S.C. 146)," and inserting in lieu thereof "(46 U.S.C. Appendix 141)," "(46 U.S.C. Appendix 121)," and "(46 U.S.C. Appendix 146),";

(e) By revoking Sections 1(g) and 1(j), and renumbering Sections 1(h) and 1(i) as Sections 1(g) and 1(h), respectively;

(f) Adding a new subsection (i) to Section 1:

"(i) The authority vested in the President by Section 5318 of the Revised Statutes, as amended (19 U.S.C. 540), to employ suitable vessels other than Coast Guard cutters in the execution of laws providing for the collection of duties on imports and tonnage;"

(g) In Section 2(e), by deleting the words ", exclusive of the territory and waters of the Canal Zone"; and

(h) By revoking Section 2(f).

Sec. 5. Part V of Executive Order No. 10530, as amended, is further amended as follows:

(a) By deleting the words "Administrator of General Services" wherever they appear and inserting in lieu thereof "Archivist of the United States";

(b) By deleting the words "(44 U.S.C. 305(a))" and inserting in lieu thereof "(44 U.S.C. 1505(a)),";

(c) By deleting the words "(44 U.S.C. 306; 311(a); and 311(f))," and inserting in lieu thereof "(44 U.S.C. 1506; 1510(a) and 1510(f)),";

(d) Adding the words "(44 U.S.C. 1505(b))," following the words "section 5(b) of the act,";

(e) Adding the words "(44 U.S.C. 1510(a))," following the words "in the said section 11(a),"; and

(f) Adding the words "(44 U.S.C. 1510)", following the words "provisions of section 11".

Sec. 6. Executive Order No. 10608 is amended by deleting the words "Foreign Service Act of 1946 (60 Stat. 999)" and inserting in lieu thereof "Foreign Service Act of 1980 (94 Stat. 2071)".

Sec. 7. Executive Order No. 10624, as amended, is further amended as follows:

(a) In the preamble, by deleting the words "sections 602(d), 603, and 605 of Title VI of the Act of August 28, 1954, 68 Stat. 908, 909" and inserting in lieu thereof "sections 605, 606B and 606D of Title VI of the Act of August 28, 1954, as amended, (7 U.S.C. 1765, 1766a, and 1766c)"; and

(b) In Section 1(a), by deleting the words "The provisions of Part II—Procedures for Coordination Abroad—of Executive Order No. 10575 of November 6, 1954," and inserting in lieu thereof "The provisions of section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927)".

Sec. 8. Executive Order No. 10840, as amended, is further amended by replacing the first paragraph and the provisions it presents with the following:

"Whereas the Assignment of Claims Act of 1940 (54 Stat. 1029), as amended by the Act of September 13, 1982, 96 Stat. 976 (31 U.S.C. 3727), contains the following provisions:

"During a war or national emergency proclaimed by the President or declared by law and ended by proclamation or law, a contract with the

Department of Defense, the General Services Administration, the Department of Energy (when carrying out duties and powers formerly carried out by the Atomic Energy Commission), or other agency the President designates may provide, or may be changed without consideration to provide, that a future payment under the contract to an assignee is not subject to reduction or setoff. A payment subsequently due under the contract (even after the war or emergency is ended) shall be paid to the assignee without a reduction or setoff for liability of the assignor—

(1) to the Government independent of the contract; or

(2) because of renegotiation, fine, penalty (except an amount that may be collected or withheld under, or because the assignor does not comply with, the contract), taxes, social security contributions, or withholding or failing to withhold taxes or social security contributions, arising from, or independent of, the contract.

"An assignee under this section does not have to make restitution of, refund, or repay the amount received because of the liability of the assignor to the Government that arises from or is independent of, the contract.

"The Government may not collect or reclaim money paid to a person receiving an amount under an assignment or allotment of pay or allowances authorized by law when liability may exist because of the death of the person making the assignment or allotment."

Sec. 9. Sections 2(a) and 2(b) of Executive Order No. 10841, as amended, are further amended by deleting the words "Atomic Energy Commission" and inserting in lieu thereof "Secretary of Energy".

Sec. 10. Executive Order No. 11023 is amended by deleting the words "Coast and Geodetic Survey" except in citing the "Coast and Geodetic Survey Commissioned Officers Act of 1948", and inserting in lieu thereof "National Oceanic and Atmospheric Administration".

Sec. 11. Executive Order No. 11030, as amended, is further amended as follows:

(a) In Section 2(c), by deleting the words "National Archives and Records Service, General Services Administration" and inserting in lieu thereof "National Archives and Records Administration";

(b) In Section 5, by deleting the words "44 U.S.C. 312" and inserting in lieu thereof "44 U.S.C. 1511";

(c) In Section 6, by deleting the words "44 U.S.C. 305(a)" and inserting in lieu thereof "44 U.S.C. 1505(a)".

Sec. 12. Executive Orders No. 11034 and 12048 are amended by deleting the words "Health, Education, and Welfare" wherever they appear and inserting in lieu thereof "Education".

Sec. 13. Executive Order No. 11047 and any other Executive order that relates to functions or areas of responsibility delegated to the Federal Aviation Administration are amended by deleting the words "Federal Aviation Agency" and "Agency" wherever they appear and inserting in lieu thereof "Federal Aviation Administration" and "Administration".

Sec. 14. Executive Order No. 11077, as amended, is further amended as follows:

(a) By deleting the second sentence in Section 1(b);

(b) By deleting the words "the Department of Health, Education, and Welfare, and of" in Section 1(c);

(c) By revoking Section 2;

(d) By renumbering Sections 3, 4, 5, 6, and 7 as Sections 2, 3, 4, 5, and 6 respectively; and

(e) By deleting in renumbered Sections 2(a) and 2(b), the words "and the Secretary of Health, Education, and Welfare may each" and inserting in lieu thereof "may".

Sec. 15. Each of the Executive Orders, as amended, listed in this Section and any other order that relates to functions or areas of responsibility delegated to the Department of Health and Human Services, is amended and revised by deleting the words "Department of Health, Education, and Welfare" wherever they occur and inserting in lieu thereof "Department of Health and Human Services", and by deleting the words "Secretary of Health, Education, and Welfare" wherever they appear and inserting in lieu thereof "Secretary of Health and Human Services":

11079	11609	12049
11140	11623	12086
11157	11687	12138
11480	11776	12146
11490	11800	12154
11583	11899	12196
		12208

Sec. 16. Executive Order No. 11390, as amended, is further amended as follows:

(a) By revoking Section 1(1);

(b) By revoking Section 1(7); and

(c) In Section 1(4), by deleting the words "by sections 565, 599, 3450, and 8450" and inserting in lieu thereof "by sections 565 and 599".

Sec. 17. Executive Order No. 11440, as amended, is further amended by deleting the words "Administrator of General Services" and the word "Administrator" wherever they appear, and inserting in lieu thereof "Archivist of the United States" and "Archivist".

Sec. 18. Section 2 of Executive Order No. 11467 is amended by deleting the words "Secretary of the Interior" and inserting the words "Secretary of Commerce".

Sec. 19. Executive Order No. 11561, as amended, is amended by deleting the words "Foreign Service Act of 1946" and inserting in lieu thereof "Foreign Service Act of 1980".

Sec. 20. Executive Order No. 11580 is amended by deleting the words "Administrator of the National Credit Union Administration" and inserting in lieu thereof "National Credit Union Administration Board" in the first paragraph.

Sec. 21. Section 7 of Executive Order No. 11644, as amended, is further amended by deleting the words "Atomic Energy Commission" and inserting in lieu thereof "Secretary of Energy and the Nuclear Regulatory Commission".

Sec. 22. Executive Order No. 11747 is amended by revoking Section 1 and deleting the words "Sec. 2.".

Sec. 23. Section 1(a) of Executive Order No. 11755 is amended by adding the words "the Commonwealth of the Northern Mariana Islands," after the words "American Samoa," wherever they appear.

Sec. 24. Section 4 of Executive Order No. 11758, as amended, is further amended by deleting the words "Federal Procurement Regulations, the Armed Services Procurement Regulations," and inserting in lieu thereof "Federal Acquisition Regulations".

Sec. 25. Executive Order No. 11845 is amended as follows:

(a) By inserting, after the words "88 Stat. 332,", the words "(2 U.S.C. 681 *et seq.*),";

(b) By inserting, after the words "section 1012 or 1013", the words "(2 U.S.C. 683 and 684)"; and

(c) By inserting, after the words "section 1014(e) of the Act", the words "(2 U.S.C. 685(e))".

Sec. 26. Executive Order No. 11880 is amended by deleting the words "Under Secretary of Commerce" and inserting in lieu thereof "Deputy Secretary of Commerce".

Sec. 27. Executive Order No. 11899, as amended, is further amended by deleting the words "(88 Stat. 2210, 25 U.S.C. 450(i))," and inserting in lieu thereof "(88 Stat. 2210, 25 U.S.C. 450 i),".

Sec. 28. Section 6 of Executive Order No. 11990 is amended by deleting the words "and the Water Resources Council".

Sec. 29. Executive Order No. 12101 is amended by deleting the words "Sections 4 and 6 of the Diplomatic Relations Act (92 Stat. 809; 22 U.S.C. 254c and 254e)" and inserting in lieu thereof "Section 4 of Diplomatic Relations Act (92 Stat. 809; 22 U.S.C. 254c)."

Sec. 30. Section 1–201(a) of Executive Order No. 12163, as amended, is further amended by revoking paragraphs (23) and (24), and by renumbering paragraphs (25), (26), (27), and (28) as paragraphs (23), (24), (25), and (26) respectively.

Sec. 31. Executive Order No. 12322 is amended by deleting the words "Principles and Standards for Water and Related Land Resources Planning (Part 711 of Title 18 of the Code of Federal Regulations (45 F.R. 64366))," and inserting in lieu thereof "Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies".

Sec. 32. Executive Order No. 12328 is amended by deleting the words "(25 CFR 251.5 and 252.31)" and inserting in lieu thereof (25 CFR 140.5 and 141.31)".

Ronald Reagan

THE WHITE HOUSE,
September 9, 1987.

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 752

Taking Adverse Actions Under the Senior Executive Service

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations on suspensions and removal actions in the Senior Executive Service (SES). The regulations exclude reemployed annuitants from coverage and extend coverage to certain limited appointees in addition to career employees currently covered. The regulations also incorporate statutory revisions since July 1979 as to the reasons for taking adverse actions. They apply to suspensions for more than 14 days or removals from the civil service for reasons of misconduct, neglect of duty, malfeasance, or failure to accept a directed reassignment or to accompany a position in a transfer of function.

EFFECTIVE DATE: October 14, 1987.

FOR FURTHER INFORMATION CONTACT: Neal Harwood, (202) 632–4625.

SUPPLEMENTARY INFORMATION: On May 30, 1986, OPM published proposed regulations (51 FR 19554) on taking adverse actions in the Senior Executive Service (SES) to implement Subchapter V of Chapter 75 of Title 5, United States Code, as amended.

The comment period, which was 60 days from the date of publication, ended on July 29, 1986. Comments were received from six agencies and one executive organization.

I. Short Suspensions

One agency and the executive organization disagreed with the provision in § 752.601(b)(1) prohibiting suspensions of career appointees for 14 days or less. In the preamble of the proposed regulations, we had pointed out that Subchapter V of Chapter 75, 5 U.S. Code, on SES adverse actions does not cover suspensions of 14 days or less and that Subchapter I of Chapter 75, which does cover such suspensions, pertains only to employees in the competitive service. We also had noted that Congress may have viewed short suspensions (normally imposed for less serious offenses) as inappropriate disciplinary measures for SES members, who have a significant impact on agency programs and on the public image of the Government.

The agency commented that, "Given the management flexibility attendant with the SES, it is arguable that the absence of specific statutory procedures for a lesser suspension means only that there are none to be followed." The agency further argued that management needs the authority to suspend SES members for 14 days or less if it is to maintain effective discipline within the workforce because, in some instances, a longer suspension would not be appropriate.

The executive organization argued that agencies have an inherent authority to take actions against their employees in the absence of specific legislation limiting this authority. It also pointed out that executives may be subject to lesser forms of disciplinary actions, such as admonishments and official reprimands. It further stated that the prohibition on short suspensions "may unnecessarily and unfairly increase the punishment received by a senior executive, as well as the number of appeals taken to the MSPB [Merit Systems Protection Board] over minor matters."

Because Congress specifically addressed the issue of disciplinary actions for career SES members in 5 U.S.C. and did not cover suspensions for 14 days or less, OPM still believes that there is no statutory authority to take such actions. The General Accounting Office (GAO) in a March 16, 1987, decision (B–221970) agreed with this conclusion. GAO also ruled that any prior suspensions for 14 days or less were "unwarranted personnel actions which require the payment of back pay."

OPM agrees with the comments, however, that the inability to take short suspensions limits the flexibility agencies have in disciplinary cases. Therefore, although the prohibition on short suspensions remains in the regulations because of current statutory provisions, OPM will seek a change in the law to authorize such suspensions.

II. Other Issues

The executive organization recommended that § 752.604(c)(1), which permits an employee "a reasonable amount of official time" to respond to a 30-day notice of proposed adverse action, be amended to provide a specific minimum time period, such as 20 days. Under 5 U.S.C. 7543(b)(2), an employee has not less than 7 days to respond to the notice, but that section does not state how much official time the employee may use in preparing his or her response. The regulatory provision allowing a "reasonable amount of official time" for SES employees to respond is the same as for non-SES employees. We are not aware of any problems that have arisen because of the provision, and it is retained.

Two agencies recommended that § 752.604(d), which allows an agency to grant an executive a maximum of 10 days on paid nonduty status when the "crime provision" is used to shorten the normal 30-day notice period, be amended to allow the agency to use the paid nonduty status for all of the shortened notice period when necessary. One of the agencies commented that the section requires that an executive have not less than 7 days to respond, but that the agency may provide a longer period, including one longer than 10 days. Further, even if an executive responds within 7 days, there may not be sufficient time while the executive is still in the paid nonduty status for the agency to make a final determination if the deciding official is not immediately available or if the response identifies questionable areas to be resolved. We agree and have amended the provision accordingly.

One agency recommended that the provisions on medical considerations and disability retirement that were added (at 49 FR 1330 on January 11, 1984) to the regulations for non-SES employees in 5 CFR 752.404(c)(3) also be adopted for SES employees. We agree and have added § 752.604(c)(4) and have amended § 752.604(f) accordingly.

One agency objected to the proposal to delete Subpart E of 5 CFR Part 752,

which contains the statutory requirements for SES adverse actions, on the basis of the convenience in having the statutory and regulatory requirements together. We agree and have retained the subpart. The subpart has been revised to incorporate statutory changes since the Civil Service Reform Act.

The following provisions of the proposed regulations did not receive any comments and are adopted in the final regulations.

(1) Section 752.601(c)(2) includes in coverage of the regulations certain limited term and limited emergency appointees who were covered under 5 U.S.C. 7511 immediately before their SES appointment.

(2) Section 752.601(d) excludes reemployed annuitants from coverage of the regulations.

(3) Section 752.603 on the standard for adverse action states, in accordance with 5 U.S.C. 7543, that such action may be taken only "for reasons of misconduct, neglect of duty, malfeasance, or failure to accept a directed reassignment or to accompany a position in a transfer of function."

(4) Section 752.604(b) provides means other than suspension for keeping an employee away from the work site during the 30-day notice period under certain circumstances, such as when an employee's continued presence would pose a threat to the employee or others. The provision in the proposed regulations, however, which would have permitted placing an appointee on involuntary sick or other leave when the agency has medical documentation stating physical or mental incapacitation has been deleted in light of court decisions that involuntary leave may be tantamount to a suspension without procedures.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it will only affect Government employees who are members of the Senior Executive Service.

List of Subjects in 5 CFR Part 752

Government employees.

U.S. Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM is amending 5 CFR Part 752 as follows:

PART 752—ADVERSE ACTIONS

1. The authority citation for Part 752 is revised as set forth below, and all other authority citations throughout Part 752 are removed:

Authority: 5 U.S.C. 7504, 7514; 5 U.S.C. 1302, Pub. L. 95-494; Section 752.401 also issued under 5 U.S.C. 3301 and 3302, and E.O. 10577; Subpart F also issued under 5 U.S.C. 7543.

2. Section 752.501 in Subpart E is amended by revising the paragraph under § 7542. and by revising paragraph (a) under § 7543. to read as follows:

Subpart E—Principal Statutory Requirements for Taking Adverse Actions Under the Senior Executive Service

Sec.

752.501 Principal statutory requirements.

* * * * *

"§ 7542. Actions covered

"This subchapter applies to a removal from the civil service or suspension for more than 14 days, but does not apply to an action initiated under section 1206 of this title, to a suspension or removal under section 7532 of this title, or to a removal under section 3592 or 3595 of this title.

"§ 7543. Cause and procedure

"(a) Under regulations prescribed by the Office of Personnel Management, an agency may take an action covered by this subchapter against an employee only for misconduct, neglect of duty, malfeasance, or failure to accept a directed reassignment or to accompany a position in a transfer of function.

* * * * *

3. Subpart F is revised to read as follows:

Subpart F—Regulatory Requirements for Taking Adverse Actions Under the Senior Executive Service

Sec.

752.601 Coverage.
752.602 Definitions.
752.603 Standard for action.
752.604 Procedures.
752.605 Appeal rights.
752.606 Agency records.

Subpart F—Regulatory Requirements for Taking Adverse Actions Under the Senior Executive Service

§ 752.601 Coverage.

(a) *Adverse actions covered.* This subpart applies to suspensions for more than 14 days and removals from the civil service as set forth in 5 U.S.C. 7542.

(b) *Actions excluded.* (1) An agency may not take a suspension action of 14 days or less.

(2) This subpart does not apply to actions taken under 5 U.S.C. 1206(g), 3592, 3595, or 7532.

(c) *Employees covered.* This subpart covers the following appointees:

(1) A career appointee—

(i) Who has completed the probationary period in the Senior Executive Service;

(ii) Who is not required to serve a probationary period in the Senior Executive Service; or

(iii) Who was covered under 5 U.S.C. 7511 immediately before appointment to the Senior Executive Service.

(2) A limited term or limited emergency appointee—

(i) Who received the limited appointment without a break in service in the same agency as the one in which the employee held a career or career-conditional appointment (or an appointment of equivalent tenure as determined by the Office of Personnel Management) in a permanent civil service position outside the Senior Executive Service; and

(ii) Who was covered under 5 U.S.C. 7511 immediately before appointment to the Senior Executive Service.

(d) *Employees excluded.* This subpart does not cover an appointee who is serving as a reemployed annuitant.

§ 752.602 Definitions.

In this subpart—

"Career appointee," "limited term appointee," and "limited emergency appointee" have the meaning given in 5 U.S.C. 3132(a).

"Day" means calendar day.

"Suspension" has the meaning given in 5 U.S.C. 7501(2).

§ 752.603 Standard for action.

(a) An agency may take an adverse action under this subpart only for reasons of misconduct, neglect of duty, malfeasance., or failure to accept a directed reassignment or to accompany a position in a transfer of function.

(b) An agency may not take an adverse action under this subpart on the basis of any reason prohibited by 5 U.S.C. 2302.

§ 752.604 Procedures.

(a) *Applicability.* The procedures provided in 5 U.S.C. 7543(b) apply to any appointee covered by this subpart.

(b) *Notice of proposed action.* (1) The notice of proposed action shall inform the appointee of his or her right to review the material that is relied on to support the reasons for action given in the notice.

(2) The agency may not use material that cannot be disclosed to the appointee or to the appointee's representative or designated physician under § 297.204(c) of this chapter to support the reasons in the notice.

(3) Under ordinary circumstances, an appointee whose removal has been proposed shall remain in a duty status in his or her regular position during the advance notice period. In those rare circumstances when the agency determines that the appointee's continued presence in the work place during the notice period may pose a threat to the appointee or others, result in loss of or damage to Government property, or otherwise jeopardize legitimate Government interests, the agency shall consider whether any of the following alternatives is feasible:

(i) Assigning the appointee to duties where he or she is no longer a threat to safety, the agency mission, or Government property;

(ii) Placing the appointee on leave with his or her consent;

(iii) Carrying the appointee on appropriate leave (annual or sick leave, leave without pay, or absence without leave) if he or she is voluntarily absent for reasons not originating with the agency; or

(iv) Curtailing the notice period when the agency can invoke the provisions of paragraph (d) of this section (the "crime provision").

(4) If none of the alternatives in paragraph (b)(3) of this section, is available, agencies may consider placing the appointee in a paid, nonduty status during all or part of the advance notice period.

(c) *Appointee's answer.* (1) The agency shall give the appointee a reasonable amount of official time to review the material relied on to support its proposed action, to prepare an answer orally and in writing, and to secure affidavits, if the appointee is in an active duty status.

(2) The agency shall designate an official to hear the appointee's oral answer who has authority either to make or to recommend a final decision on the proposed adverse action.

(3) The right to answer orally in person does not include the right to a formal hearing with examination of witnesses unless the agency provides for a formal hearing in its regulations in accordance with paragraph (g) of this section.

(4) If the appointee wishes the agency to consider any medical condition that may have affected the basis for the adverse action, the appointee shall be given reasonable time to furnish medical documentation of the condition. The same procedures that are applicable in § 752.404(c)(3) of this chapter are also applicable for an appointee in the Senior Executive Service.

(d) *Exception.* Section 7543(b)(1) of Title 5 of the United States Code authorizes an exception to the 30 days' advance written notice when the crime provision is invoked. This provision may be invoked even in the absence of judicial action if the agency has reasonable cause to believe that the appointee has committed a crime for which a sentence of imprisonment may be imposed. The agency may require the appointee to furnish any answer to the proposed action, and affidavits and other documentary evidence to support the answer, within such time as under the circumstances would be reasonable, but not less than 7 days. When the circumstances require immediate action, the agency may place the appointee in a nonduty status with pay for such time as is necessary to effect the action.

(e) *Representation.* (1) Under 5 U.S.C. 7543(b)(3), an appointee covered by this subpart is entitled to be represented by an attorney or other representative.

(2) An agency may disallow as an appointee's representative—

(i) An individual whose activities as a representative would cause a conflict of interest or position;

(ii) An employee of the agency whose release from his or her official position would give rise to unreasonable costs; or

(iii) An employee of the agency whose priority work assignments preclude the employee's release.

(f) *Agency decision.* In arriving at its written decision, the agency may consider only the reasons specified in the notice of proposed action. The agency shall consider any reply of the appointee or the appointee's representative made to a designated official and any medical documentation furnished under paragraph (c) of this section. The agency shall deliver the notice of decision to the appointee at or before the time the action will be effective. The notice of decision shall inform the appointee of his or her appeal rights.

(g) *Hearing.* Under 5 U.S.C. 7543(c), the agency may, in its regulations, provide a hearing in place of or in addition to the opportunity for written and oral reply.

§ 752.605 Appeal rights.

(a) Under 5 U.S.C. 7543(d), a career appointee against whom an action is taken under this subpart is entitled to appeal to the Merit Systems Protection Board.

(b) A limited term or limited emergency appointee who is covered under § 752.601(c)(2) also may appeal an action taken under this subpart to the Merit Systems Protection Board.

§ 752.606 Agency records.

The agency shall maintain copies of the adverse action record items specified in 5 U.S.C. 7543(e) and furnish them upon request as required by that subsection.

[FR Doc. 87-21024 Filed 9-11-87; 8:45 am]
BILLING CODE 6325-01-M

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5 CFR Part 890

An Additional Opportunity for Annuitants To Enroll for Federal Employees Health Benefits Coverage

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: The Office of Personnel Management (OPM) is revising its regulations to permit an annuitant who is covered by the Federal Employees Health Benefits (FEHB) enrollment of another person to enroll either for self only or for self and family coverage in the same plan and option when the covering enrollment is canceled. The previous FEHB regulations permitted only active employees to take such action following the cancellation of a covering enrollment. These revised regulations will correct this inequity by allowing eligible annuitants the same enrollment opportunities that employees receive after the cancellation of the covering enrollment.

EFFECTIVE DATE: September 14, 1987.

FOR FURTHER INFORMATION CONTACT: John Ray, (202) 632-4634.

SUPPLEMENTARY INFORMATION: On May 7, 1987, OPM published proposed regulations in the **Federal Register** (52 FR 17300) to allow an eligible annuitant who was covered by the enrollment of another person under the FEHB Program to enroll in the same plan and option within 31 days after the voluntary cancellation of the covering enrollment. Such an opportunity to enroll had previously been made available only to active employees. We also published a proposed clarification to another section of the regulations to specify that an annuitant who loses FEHB coverage because the covering enrollment is changed to self only must be otherwise eligible to enroll in his or her own right.

Two written comments were received during the 60-day comment period. One comment, which offered no suggestions for changes, was from a national association of Federal employees. The other comment was from a national association of retired Federal employees and was totally supportive of the

proposed changes. Therefore, we are publishing our proposed revisions to the regulations as final regulations without any further changes.

Waiver of 30-Day Delay in Effective Date of Final Regulation

Pursuant to section 553(d)(1) of Title 5 of the United States Code, I find that good cause exists to make this amendment effective in less than 30 days. The regulation is being made effective immediately to enable as many annuitants as possible to take advantage of the new opportunity for FEHB enrollment which must be exercised within 31 days of an annuitant's loss of coverage as a family member.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because the regulations will apply only to annuitants seeking to continue their FEHB coverage.

List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Claims, Government employees, Health insurance, Retirement.

U.S. Office of Personnel Management

James E. Colvard,

Deputy Director.

Accordingly, OPM is amending 5 CFR Part 890 as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. The authority citation for Part 890 continues to read as follows:

Authority: 5 U.S.C. 8913; Section 890.102 also issued under 5 U.S.C. 1104 and Section 3(5) of Pub. L. 95–454, 92 Stat. 1112; Section 890.301 also issued under 5 U.S.C. 8905(b); Section 890.302 also issued under 5 U.S.C. 8901(5) and 5 U.S.C. 8901(9); Section 890.701 also issued under 5 U.S.C. 8902(m)(2); Subpart H also issued under Title I of Pub. L. 98–615, 98 Stat. 3195, and Title II of Pub. L. 99–251, 100 Stat. 20.

2. In § 890.301, a new paragraph (f)(3) is added and paragraph (g)(4) is revised to read as follows:

§ 890.301 Opportunities to register to enroll and change enrollment.

* * * * *

(f) *Change to self alone.* * * *

(3) In order for an employee annuitant to be eligible to elect self only coverage under authority of this paragraph, he or she must meet the statutory requirements of having retired on an immediate annuity and having been covered by a plan under this part (including enrollment in his or her own right) since his or her first opportunity to enroll or for the 5 years immediately preceding his or her retirement, whichever is shorter.

(g) *Loss of coverage under Federal programs.* * * *

(4) An employee or annuitant who is not enrolled, but is covered by the enrollment of another enrollee under this part, may register to be enrolled in the same plan and option within 31 days after cancellation of the other's enrollment. If the employee is not eligible to enroll in the plan from which coverage is lost, he or she may enroll in the same option of any available plan. In order for an employee annuitant to be eligible to enroll under authority of this paragraph, he or she must meet the statutory requirements of having retired on an immediate annuity and having been covered by a plan under this part (including enrollment in his or her own right) since his or her first opportunity to enroll or for the 5 years immediately preceding his or her retirement, whichever is shorter.

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[FR Doc. 87–21015 Filed 9–11–87; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 418

[Amdt. No. 2; Docket No. 4701S]

Wheat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the Wheat Crop Insurance Regulations (7 CFR Part 418), effective for the 1988 crop year. The intended effect of this rule is to maintain the effectiveness of the present Wheat Crop Insurance Regulations (7 CFR Part 418) only through the 1987 crop year. The provisions currently contained in this Part have been issued as an endorsement to the newly issued 7 CFR Part 401, General Crop Insurance Regulations (§ 401.101, Wheat Endorsement), effective for the 1988 and succeeding crop years. 7 CFR Part 401 is a standard set of regulations and a master policy for insuring most crops authorized under the provisions of the Federal Crop Insurance Act, as amended, and substantially reduces; (1) The time involved in amendment or revision; (2) the necessity of the present repetitious review process; and (3) the volume of paperwork processed by FCIC. The authority for the promulgation of this rule is the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: September 14, 1987.

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is December 31, 1990.

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

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

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

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

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

Background

FCIC has published over 40 policies to cover insurance on that many different crops. Many of the regulations and policies contain identical language, which, if changed requires that over 40 different policies be changed, both in the Code of Federal Regulations (CFR) and the printed policy language. This repetition of effort is both inefficient and expensive. FCIC, therefore, has published in 7 CFR Part 401, one set of regulations and one master policy to contain that language which is identical in most of the policies and regulations.

As revisions on individual policies are necessary, FCIC will publish a "crop endorsement" which will contain the language of the policy unique to that crop, and any exceptions to the master policy language necessary for that crop. When an endorsement is published as a section to Part 401, effective for a subsequent crop year, the present policy contained in a seperate part of Chapter IV is terminated at the end of the crop year then in effect.

In order to clearly establish that 7 CFR Part 418 will be effective only through the end of the 1987 crop year, FCIC amends the subpart heading of these regulations to specify that such will be the case.

The new Wheat Endorsement has been published as an endorsement to 7 CFR Part 401 (§ 401.101, Wheat Endorsement), and becomes effective for the 1988 and succeeding crop years. The provisions of the Wheat Crop Insurance Regulations, now contained in 7 CFR Part 418, are therefore superseded and will terminate, effective with the end of the 1987 crop year.

On July 7, 1987, FCIC published a notice of proposed rulemaking in the **Federal Register** at 52 FR 25381, proposing to amend the subpart heading of 7 CFR Part 418 to make the regulations therein effective only through the end of the 1987 crop year. The public was given 30 days in which to submit written comments, data, and opinions on the proposed rule, but none were received.

Therefore, the proposed rule published at 52 FR 25381 is adopted as final.

List of Subjects in 7 CFR Part 418

Crop insurance, Wheat.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation amends the Subpart heading to the Wheat Crop Insurance Regulations (7 CFR Part 418), as follows:

PART 418—[AMENDED]

1. The Authority citation for 7 CFR Part 418 continues to read as follows:

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

2. The Subpart heading in 7 CFR Part 418 is revised to read as follows:

Subpart—Regulations for the 1986 and 1987 Crop Years

Done in Washington, DC on August 21, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87–21077 Filed 9–11–87; 8:45 am]

BILLING CODE 3410–08–M

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7 CFR Part 419

[Amdt. No. 3; Docket No. 4705S]

Barley Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation,USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the Barley Crop Insurance Regulations (7 CFR Part 419), effective for the 1988 crop year. The intended effect of this rule is to maintain the effectiveness of the present Barley Crop Insurance Regulations (7 CFR Part 419) only through the 1987 crop year. The provisions currently contained in this Part have been issued as an endorsement to the newly issued 7 CFR Part 401, General Crop Insurance Regulations (§ 401.103, Barley Endorsement), effective for the 1988 and succeeding crop years. 7 CFR Part 401 is a standard set of regulations and a master policy for insuring most crops authorized under the provisions of the Federal Crop Insurance Act, as amended, and substantially reduces: (1) The time involved in amendment or revision; (2) the necessity of the present repetitious review process; and (3) the volume of paperwork processed by FCIC. The authority for the promulgation of this rule is the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: September 14, 1987.

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is December 31, 1990.

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

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

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

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

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

Background

FCIC has published over 40 policies to cover insurance on that many different crops. Many of the regulations and policies contain identical language, which, if changed requires that over 40 different policies be changed, both in the Code of Federal Regulations (CFR) and the printed policy language. This repetition of effort is both inefficient and expensive. FCIC, therefore, has published in 7 CFR Part 401, one set of regulations and one master policy to contain that language which is identical in most of the policies and regulations.

As revisions on individual policies are necessary, FCIC will publish a "crop endorsement" which will contain the language of the policy unique to that crop, and any exceptions to the master

policy language necessary for that crop. When an endorsement is published as a section to Part 401, effective for a subsequent crop year, the present policy contained in a separate part of Chapter IV is terminated at the end of the crop year then in effect.

In order to clearly establish that 7 CFR Part 419 will be effective only through the end of the 1987 crop year, FCIC amends the subpart heading of these regulations to specify that such will be the case.

The new Barley Endorsement has been published as an endorsement to 7 CFR Part 401 (§ 401.103, Barley Endorsement), and becomes effective for the 1988 and succeeding crop years. The provisions of the Barley Crop Insurance Regulations, now contained in 7 CFR Part 419, are therefore superseded and will terminate, effective with the end of the 1987 crop year.

On July 7, 1987, FCIC published a notice of proposed rulemaking in the **Federal Register** at 52 FR 25382, proposing to amend the subpart heading of 7 CFR Part 419 to make the regulations therein effective only through the end of the 1987 crop year. The public was given 30 days in which to submit written comments, data, and opinions on the proposed rule, but none were received.

Therefore, the proposed rule published at 52 FR 25382 is adopted as final.

List of Subjects in 7 CFR Part 419

Crop insurance, Barley.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation amends the Subpart heading to the Barley Crop Insurance Regulations (7 CFR Part 419), as follows:

PART 419—[AMENDED]

1. The Authority citation for 7 CFR Part 419 continues to read as follows:

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

2. The Subpart heading in 7 CFR Part 419 is revised to read as follows:

Subpart—Regulations for the 1986 and 1987 Crop Years

Done in Washington, DC on August 20, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87–21074 Filed 9–11–87; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 427

[Amdt. No. 2; Doc. No. 4708S]

Oat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the Oat Crop Insurance Regulations (7 CFR Part 427), effective for the 1988 crop year. The intended effect of this rule is to maintain the effectiveness of the present Oat Crop Insurance Regulations (7 CFR Part 427) only through the 1987 crop year. The provisions currently contained in this Part have been issued as an endorsement to the newly issued 7 CFR Part 401, General Crop Insurance Regulations (§401.105, Oat Endorsement), effective for the 1988 and succeeding crop years. 7 CFR Part 401 is a standard set of regulations and a master policy for insuring most crops authorized under the provisions of the Federal Crop Insurance Act, as amended, and substantially reduces: (1) The time involved in amendment or revision; (2) the necessity of the present repetitious review process; and (3) the volume of paperwork processed by FCIC. The authority for the promulgation of this rule is the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: September 14, 1987.

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is December 31, 1990.

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

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

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

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

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

Background

FCIC has published over 40 policies to cover insurance on that many different crops. Many of the regulations and policies contain identical language, which, if changed requires that over 40 different policies be changed, both in the Code of Federal Regulations (CFR) and the printed policy language. This repetition of effort is both inefficient and expensive. FCIC, therefore, has published in 7 CFR Part 401, one set of regulations and one master policy to contain that language which is identical in most of the policies and regulations.

As revisions on individual policies are necessary, FCIC will publish a "crop endorsement" which will contain the language of the policy unique to that crop, and any exceptions to the master policy language necessary for that crop. When an endorsement is published as a section to Part 401, effective for a subsequent crop year, the present policy contained in a separate part of Chapter IV is terminated at the end of the crop year then in effect.

In order to clearly establish that 7 CFR Part 427 will be effective only through the end of the 1987 crop year, FCIC amends the subpart heading of these regulations to specify that such will be the case.

The new Oat Endorsement has been published as an endorsement to 7 CFR Part 401 (§401.105, Oat Endorsement), and becomes effective for the 1988 and succeeding crop years. The provisions of the Oat Crop Insurance Regulations, now contained in 7 CFR Part 427, are therefore superseded and will terminate, effective with the end of the 1987 crop year.

On July 7, 1987, FCIC published a notice of proposed rulemaking in the **Federal Register** at 52 FR 25383, proposing to amend the subpart heading of 7 CFR Part 427 to make the regulations therein effective only through the end of the 1987 crop year. The public was given 30 days in which to submit written comments, data, and opinions on the proposed rule, but none was received.

Therefore, the proposed rule published at 52 FR 25383 is adopted as final.

List of Subjects in 7 CFR Part 427

Crop insurance, Oat.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation amends the Subpart heading to the Oat Crop Insurance Regulations (7 CFR Part 427), as follows:

PART 427—[AMENDED]

1. The Authority citation for 7 CFR Part 427 continues to read as follows:

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

2. The Subpart heading in 7 CFR Part 427 is revised to read as follows:

Subpart—Regulations for the 1986 and 1987 Crop Years

Done in Washington, DC on August 21, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87–21075 Filed 9–11–87; 8:45 am]

BILLING CODE 3410–08–M

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7 CFR Part 429

[Amdt. No. 2; Doc. No. 4709S]

Rye Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the Rye Crop Insurance Regulations (7 CFR Part 429), effective for the 1988 crop year. The intended effect of this rule is to maintain the effectiveness of the present Rye Crop Insurance Regulations (7 CFR Part 429) only through the 1987 crop year. The provisions currently contained in this Part have been issued as an endorsement to the newly issued 7 CFR Part 401, General Crop Insurance Regulations (401.106, Rye Endorsement), effective for the 1988 and succeeding crop years. 7 CFR Part 401 is a standard set of regulations and a master policy for insuring most crops authorized under the provisions of the Federal Crop Insurance Act, as amended, and substantially reduces: (1) The time involved in amendment or revision; (2) the necessity of the present repetitious review process; and (3) the volume of paperwork processed by FCIC. The authority for the promulgation of this rule is the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: September 14, 1987.

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is December 31, 1990.

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

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

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

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

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

Background

FCIC has published over 40 policies to cover insurance on that many different crops. Many of the regulations and policies contain identical language, which, if changed requires that over 40 different policies be changed, both in the Code of Federal Regulations (CFR) and the printed policy language. This repetition of effort is both inefficient and expensive. FCIC, therefore, has published in 7 CFR Part 401, one set of regulations and one master policy to contain that language which is identical in most of the policies and regulations.

As revisions on individual policies are necessary, FCIC will publish a "crop endorsement" which will contain the language of the policy unique to that crop, and any exceptions to the master policy language necessary for that crop. When an endorsement is published as a section to Part 401, effective for a subsequent crop year, the present policy contained in a separate part of Chapter IV is terminated at the end of the crop year then in effect.

In order to clearly establish that 7 CFR Part 429 will be effective only through the end of the 1987 crop year, FCIC amends the subpart heading of these regulations to specify that such will be the case.

The new Rye Endorsement has been published as an endorsement to 7 CFR Part 401 (401.106, Rye Endorsement), and becomes effective for the 1988 and succeeding crop years. The provisions of the Rye Crop Insurance Regulations, now contained in 7 CFR Part 429, are therefore superseded and will terminate, effective with the end of the 1987 crop year.

On July 7, 1987, FCIC published a notice of proposed rulemaking in the **Federal Register** at 52 FR 25384, proposing to amend the subpart heading of 7 CFR Part 429 to make the regulations therein effective only through the end of the 1987 crop year. The public was given 30 days in which to submit written comments, data, and opinions on the proposed rule, but none were received.

Therefore, the proposed rule published at 52 FR 25384 is adopted as final.

List of Subjects in 7 CFR Part 429

Crop insurance, Rye.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*),

the Federal Crop Insurance Corporation amends the Subpart heading to the Rye Crop Insurance Regulations (7 CFR Part 429), as follows:

PART 429—[AMENDED]

1. The Authority citation for 7 CFR Part 429 continues to read as follows:

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

2. The Subpart heading in 7 CFR Part 429 is revised to read as follows:

Subpart—Regulations for the 1986 and 1987 Crop Years

Done in Washington, DC on August 21, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87–21076 Filed 9–11–87; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 439

[Amdt. No. 1; Doc. No. 4711S]

Almond Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the Almond Crop Insurance Regulations (7 CFR Part 439), effective for the 1988 crop year. The intended effect of this rule is to maintain the effectiveness of the present Almond Crop Insurance Regulations (7 CFR Part 439) only through the 1987 crop year. The provisions currently contained in this part have been issued as an endorsement to the newly issued 7 CFR Part 401, General Crop Insurance Regulations (§ 401.110, Almond Endorsement), effective for the 1988 and succeeding crop years. 7 CFR Part 401 is a standard set of regulations and a master policy for insuring most crops authorized under the provisions of the Federal Crop Insurance Act, as amended, and substantially reduces: (1) The time involved in amendment or revision; (2) the necessity of the present repetitious review process; and (3) the volume of paperwork processed by FCIC. The authority for the promulgation of this rule is the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: September 14, 1987.

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is December 31, 1990.

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

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

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

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

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

Background

FCIC has published over 40 policies to cover insurance on that many different crops. Many of the regulations and policies contain identical language, which, if changed requires that over 40 different policies be changed, both in the Code of Federal Regulations (CFR) and the printed policy language. This repetition of effort is both inefficient and expensive. FCIC, therefore, has published in 7 CFR Part 401, one set of regulations and one master policy to contain that language which is identical in most of the policies and regulations.

As revisions on individual policies are necessary, FCIC will publish a "crop endorsement" which will contain the language of the policy unique to that crop, and any exceptions to the master policy language necessary for that crop. When an endorsement is published as a section to Part 401, effective for a subsequent crop year, the present policy contained in a separate part of Chapter IV is terminated at the end of the crop year then in effect.

In order to clearly establish that 7 CFR Part 439 will be effective only through the end of the 1987 crop year, FCIC amends the subpart heading of these regulations to specify that such will be the case.

The new Almond Endorsement has been published as an endorsement to 7 CFR Part 401 (401.110, Almond Endorsement), and becomes effective for the 1988 and succeeding crop years. The provisions of the Almond Crop Insurance Regulations, now contained in 7 CFR Part 439, are therefore superseded and will terminate, effective with the end of the 1987 crop year.

On July 2, 1987, FCIC published a notice of proposed rulemaking in the **Federal Register** at 52 FR 25015, proposing to amend the subpart heading of 7 CFR Part 439 to make the regulations therein effective only through the end of the 1987 crop year. The public was given 30 days in which to submit written comments, data, and opinions on the proposed rule, but none were received.

Therefore, the proposed rule published at 52 FR 25015 is adopted as final.

List of Subjects in 7 CFR Part 439

Crop insurance, Almond.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation amends the Subpart heading to the Almond Crop Insurance Regulations (7 CFR Part 439), as follows:

PART 439—[AMENDED]

1. The authority citation for 7 CFR Part 439 continues to read as follows:

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

2. The subpart heading in 7 CFR Part 439 is revised to read as follows:

Subpart—Regulations for the 1986 and 1987 Crop Years

Done in Washington, DC, on August 21, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-21073 Filed 9-11-87; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 578]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 578 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 286,011 cartons during the period September 13 through September 19, 1987. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 578 (§ 910.878) is effective for the period September 13 through September 19, 1987.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090-6456, telephone: (202) 447-5697.

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

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

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

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

This regulation is consistent with the marketing policy for 1987-88. The committee met publicly on September 9, 1987, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended by a 9 to 3 vote a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the market is fair.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been appraised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

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

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

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

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

2. Section 910.878 is added to read as follows:

§ 910.878 Lemon Regulation 578.

The quantity of lemons grown in California and Arizona which may be handled during the period September 13 through September 19, 1987, is established at 286,011 cartons.

Dated: September 10, 1987.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87-21202 Filed 9-11-87; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-NM-41-AD; Amdt. 39-5722]

Airworthiness Directives; Boeing Model 767 Airplanes Equipped With General Electric CF6 Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes equipped with General Electric CF6 Engines, which requires replacement of aluminum brackets with inconel brackets at three locations in each engine strut area to support the hydraulic pressure line. This amendment is prompted by reports of cracks extending through the width of the bracket, allowing the bracket flange and clamp to contact and wear the adjacent fuel line. This condition, if not corrected, could lead to penetration of the fuel line wall, creating a fuel leak.

EFFECTIVE DATE: October 7, 1987.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Donald L. Kurle, Aerospace Engineer, Systems and Equipment Branch, ANM-130S; telephone (206) 431-1946. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal

Aviation Regulations to include an airworthiness directive which requires the replacement of aluminum brackets with inconel brackets at three locations in each engine strut area to support the hydraulic pressure line on certain Boeing Model 767 airplanes equipped with General Electric CF6 engines, was published in the **Federal Register** on May 11, 1987 (52 FR 17598).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter, the Air Transport Association (ATA) of America, noted that its members affected by the proposed rule expressed agreement with the replacement of the aluminum brackets with inconel brackets. However, one ATA member proposed extending the 3,000 flight hour compliance period to 4,500 hours, provided repetitive inspections are conducted at 850 flight hour intervals. The member now inspects the subject brackets at 850 flight hour intervals and considers this inspection as equivalent in safety to mandatory bracket replacement within the 3,000 flight hour compliance period. The FAA does not agree totally with this comment. Since the method and adequacy of the inspection used by the ATA member is not known by the FAA, the FAA cannot at this time approve inspection in lieu of replacement. Therefore, the FAA is issuing the final rule as proposed. If the operator wishes to pursue periodic inspection and replacement at 4,500 flight hours as an alternate means of compliance, it is encouraged to submit a detailed proposal to the FAA in accordance with paragraph B. of the rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 30 airplanes of U.S. registry will be affected by this AD, that it will take approximately 16 manhours per airplane to accomplish the required actions, that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $19,200.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, because few, if any, Model 767 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 767 series airplanes, equipped with General Electric CF6 engines, listed in Boeing Service Bulletin 767-29-0032, dated January 15, 1987, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent cracking of the hydraulic pressure line aluminum support brackets in the engine strut, and possible fuel line penetration, accomplish the following:

A. Within the next 3,000 hours time-in-service after the effective date of this AD, replace aluminum brackets with inconel brackets at three locations in each engine strut area to support the hydraulic pressure line in accordance with Boeing Service Bulletin 767-29-0032 dated January 15, 1987, or later FAA-approved revision.

B. An alternate means of compliance or adjustment of the compliance time, which provide an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. These documents may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective October 7, 1987.

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

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87-21007 Filed 9-11-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-NM-16-AD; Amdt. 39-5720]

Airworthiness Directives; British Aerospace Model BAC 1-11 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Model BAC 1-11 series airplanes, equipped with R.F.D. inflatable escape slides, which requires modification to the emergency escape slide deployment system. This amendment is prompted by reports of failure of the emergency escape slide to deploy. This condition, if not corrected, could result in preventing timely escape from an airplane in an emergency.

EFFECTIVE DATE: October 7, 1987.

ADDRESSES: The applicable service information may be obtained from British Aerospace, Inc., Librarian, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires modification to the emergency escape slide deployment system in certain British Aerospace Model BAC 1-11 series airplanes equipped with R.F.D. inflatable escape slides, was published in the **Federal Register** on June 3, 1987 (52 FR 20722).

Interested parties have been afforded an opportunity to participate in the

making of this amendment. Due consideration has been given to the single comment received in response to the NPRM.

The commenter agreed with the intent of the NPRM, but, regarding paragraph B. of the proposal, could see no reason to allow an extension of the compliance times to repair the escape slide system. The FAA disagrees. Paragraph B. of the NPRM is a standard provision in most AD's to allow an alternate means to be used in complying with the AD. Each request for approval under this paragraph must provide an acceptable level of safety and is carefully reviewed and decided upon, based on the safety merit of each particular request.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 6 airplanes of U.S. registry will be affected by this AD, that it will take approximately 7 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Estimated cost for parts is $100/airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $2,280.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because of the minimal cost of compliance per airplane ($380). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

British Aerospace (BAe): Applies to Model BAC 1–11 series airplanes equipped with R.F.D. inflatable escape slides, identified in BAe BAC 1–11 Service Bulletin 25–PM5906, Revision 2, dated November 9, 1984, and BAC 1–11 Service Bulletin 25–PM5943, dated November 24, 1986, certificated in any category. Compliance is required within 5 months after the effective date of this AD, unless previously accomplished.

To prevent failure of the emergency escape slide deployment system, accomplish the following:

A. Modify the R.F.D. emergency escape slide system in accordance with BAC 1–11 Service Bulletin 25–PM5906, Revision 2, dated November 9, 1984, and BAC 1–11 Service Bulletin 25–PM5943, dated November 24, 1986.

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

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

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to British Aerospace, Inc., Librarian, P.O. Box 17414, Dulles International Airport, Washington DC 20041. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective October 7, 1987.

Issued in Seattle, Washington, on August 24, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87–21008 Filed 9–11–87; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Risk Management Exemptions From Speculative Position Limits Approved Under Commission Regulation 1.61

AGENCY: Commodity Futures Trading Commission.

ACTION: Statement of agency interpretation.

SUMMARY: The Commodity Futures Trading Commission ("Commission" or "CFTC") is publishing the following interpretation of Commission Regulation 1.61 in order to assist exchanges who may wish to amend, pursuant to section 5a(12) of the Commodity Exchange Act ("Act"), their speculative position limit rules required under Commission Regulation 1.61. The purpose of such an amendment would be to include risk-management exemptions in addition to the current exemptions for hedging and arbitrage or spreading. The interpretation pertains both to the types of positions which the Commission believes it may be appropriate to exempt and the procedures for granting such exemptions in view of an exchange's rule enforcement responsibilities. The Commission believes that such exemptions from exchange-enforced position limits are consistent with the objectives of the Commodity Exchange Act as discussed in this interpretation.

This interpretation delineates those positions which clearly would fall under such an exemption. The interpretation is not intended to be all-inclusive, and other positions, upon further analysis, might also be included appropriately within such an exemption. The Commission welcomes comment from all persons concerning this interpretation and other positions which might be included under such an exemption, consistent with the analysis of this interpretation.

EFFECTIVE DATE: September 14, 1987.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to Regulation 1.61 exemptions.

FOR FURTHER INFORMATION CONTACT: Ronald B. Hobson, Assistant to the Director, Division of Economic Analysis, 2033 K Street, NW., Washington, DC 20581 (202) 254–7303.

SUPPLEMENTARY INFORMATION:

I. Introduction

When the Agriculture Committees of the House of Representatives and the Senate reported out their respective versions of the Futures Trading Act of 1986, each Committee called upon the Commodity Futures Trading Commission to review its hedging definition to ensure that the definition continues to be consistent with the

current needs and practices of the industry.[1]

The report of the House of Representatives' version of the Futures Trading Act of 1986 noted that the principal problems identified by Committee witnesses with respect to the current definition pertain to the focus of the definition on agricultural and other physical commodity futures. In this regard, the House Committee Report noted:

> [T]hese witnesses stated that, depending on how the definition is interpreted, it may not recognize certain new uses of financial futures and options by investment advisers, banks, and insurance companies that manage pension funds, mutual funds, and other portfolios who must choose among different investments with varying levels of risk and anticipated returns.

Further, the House of Representatives' Committee Report noted:

> [A]s part of this review, the Committee wishes the Commission to consider giving certain concepts, uses, and strategies "non-speculative" treatment under the Act and relevant Commission regulations, whether under the hedging definition or, if appropriate, as a separate category similar to the treatment given certain spread, straddle, or arbitrage positions: one, the concept of "risk management" by portfolio managers as an alternative to the concept of "risk reduction"; two, futures positions taken as alternatives rather than temporary substitutes for cash market positions; three, other trading strategies involving the use of financial futures including, but not limited to, asset allocation (altering portfolio exposure in certain areas such as equity and debt), portfolio immunization (curing mismatches between the duration and sensitivity of a pension fund's assets and liabilities to ensure that portfolio assets will be sufficient to fund payment of its liabilities) and duration (altering the average maturity of a portfolio's assets); and four, options transactions, in particular the writing of covered puts and calls.

The reports of the Agriculture Committees of both the House of Representatives and the Senate further noted that a principal purpose of the Act, as set forth in section 4a(1), is the prevention of excessive speculation which causes unreasonable or unwarranted changes in commodity prices and that Commission actions on this matter should be consistent with this important purpose.

At about the same time as the enactment of the Futures Trading Act of 1986, the Commission's Financial Products Advisory Committee ("FPAC") adopted a resolution recommending that the Commission direct its staff to determine whether amendments to the Commission's hedging definition are necessary to accommodate current prudent portfolio management techniques that involve the use of futures markets. In order to facilitate the Commission's review of the hedging definition, the FPAC undertook a study which it issued in June 1987.[2] This study reviewed the Commission's hedging definition in light of modern finance theory and current investment practices. Based on this review, the FPAC made several recommendations including the recommendation that "the CFTC should define a new category of risk management positions that would be exempt from speculative position limits." In this regard, the FPAC observed that financial futures and options may be used as surrogates or complements to cash market positions to alter risk exposure or take advantage of "the transactional efficiencies of the futures and options markets." The FPAC noted that such positions would be unleveraged (*i.e.*, would be covered by cash or cash equivalents) or would result in leverage in the futures market only to the extent necessary to replicate an alternative, unleveraged exposure in the cash market for the relevant underlying securities. The FPAC also expressed the view that such positions would be no more conducive to market manipulation or disruption than are currently recognized hedging strategies.

The Commission believes that the exemption of certain risk-management positions from exchange speculative limits would be consistent with the objectives of Regulation 1.61 as discussed below.[3] Furthermore, the Commission believes that this interpretation regarding the appropriate nature of such exemptions and the situations under which they could be granted is responsive to the above noted Congressional suggestions proffered in the context of the 1986 reauthorization.

II. Background on Regulation 1.61

Paragraph (a)(1) of Commission Regulation 1.61 provides that each contract market shall adopt speculative limits on futures positions:

> [F]or the purpose of preventing excessive speculation in any commodity under contracts of sale of such commodity for future delivery, arising from those extraordinarily large positions which may cause sudden or unreasonable fluctuations or unwarranted changes in the price of such commodity.[4]

In other words, the objective of speculative limits adopted under this regulation is to prevent large futures or option positions from disrupting the relevant derivative market. This requirement is based on the premise of section 4a of the Act that large speculative positions present potential for disruptions in terms of unreasonable fluctuations or unwarranted changes in commodity prices. In particular, the Commission has noted that "a trader's net position has a continued effect on price, and if sufficiently large can become a perceptible market factor." (45 FR 79833) Speculative limits serve to limit this potential influence of relatively large positions, including those situations where such positions must be liquidated abruptly during volatile market conditions which often involve erratic price movements. In view of this concern Commission approval of exchange rules permitting exemptions from speculative limits to date has been limited to bona fide hedging positions or positions which are otherwise economically balanced, *i.e.*, spreading or arbitrage positions.[5]

These rules require that traders apply to the exchange for speculative limit exemptions on a case-by-case basis. Moreover, the rules require that certain factors be considered by the exchange in determining the level of such exemptions. In the case of positions

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[1] See H.R. Rep. No. 624, 99th Cong., 2d Sess. 1, 45–46 (1986); and S. Rep. No. 291, 99th Cong., 2d Sess. 1, 21–22 (1986).

[2] *The Hedging Definition and the Use of Financial Futures and Options: Problems and Recommendations for Reform*, Report of the Financial Products Advisory Committee of the Commodity Futures Trading Commission, June 1987.

[3] In this regard, it should be noted that this interpretation relates solely to the application of Commission speculative position limits and does not address Commission Rule 4.5, 17 CFR 4.5. That rule delineates a safe harbor for identifying entities which meet the definition of a commodity pool, but which, because they are otherwise regulated and have adopted certain limitations on their commodity interest trading, should not be treated as pools.

[4] Paragraph (b) of Regulation 1.61 incorporates by reference this same objective with respect to position limits for option contracts.

[5] Regulation 1.61 (paragraphs (a)(2) for futures and (b)(2) for options) provides that limits established pursuant to the rule shall not apply to bona fide hedging positions as defined in accordance with CFTC Regulation 1.3(z)(1), provided that a contract market may limit such positions consistent with sound commercial practices and orderly markets. In addition, paragraph (a) provides that in establishing position limits for futures, a contract market may, among other things, set different limits or provide exemptions for positions which are normally known in the trade as "spreads, straddles or arbitrage."

Paragraph (e) of Rule 1.61 provides for certain additional explicit exemptions from newly established limits and for the cumulations of futures commissions merchants' or floor brokers' non-proprietary accounts. Further, this paragraph provides that

> [I]n addition to the express exemptions specified in this section, a contract market may provide and submit for Commission approval, such other exemptions from its position limits adopted pursuant to paragraph (a) or (b) of this section, consistent with the purposes of this section.

determined to be bona fide hedging, the exchange is to take into account the applicant's hedging needs and financial capability. Similarly, exchanges are required to consider an applicant's financial status and the liquidity of the markets involved in granting spread or arbitrage exemptions for futures or options. In view of these factors, exchanges are required to determine levels of exemptions which are consistent with an applicant's commercial needs and with orderly markets.

III. The Nature of "Risk Management" Positions

The FPAC's study of the hedging definition contains an extensive discussion of trading strategies involving financial futures and options that are currently employed by financial institutions. In a broad sense, each of these strategies could be characterized as a form of risk management since each serves to alter an institution's risk-return profile within the context of the institution's overall investment objectives and predetermined risk parameters. However, many of these strategies involve risk *reduction* and therefore fall within the Commission's current hedging definition.[6] As a consequence, any futures or option positions involved in such risk-reducing strategies currently would be eligible for exemption from exchange speculative limits pursuant to the exchange rules governing such limits and exemptions therefrom. The FPAC recommendation regarding speculative limit exemptions for "risk-management" positions concerns only those strategies which do not involve a reduction in an institution's risk exposure and therefore are not eligible for a hedging exemption.

In order to illustrate more precisely the types of positions that could be considered for exemptions from speculative limits by exchanges under a risk-management classification, consider a pension fund that has received new monies from fund contributors. The fund's manager must decide how to allocate such contributions among a myriad of investment alternatives. The manager may believe that the stock market as a whole offers favorable short-term return prospects but may be undecided with respect to the individual stocks to be purchased or, perhaps, whether over the longer run the stock investment should be made. In order to obtain immediate stock market exposure, the manager invests the majority of the new funds in short-term money market instruments (*e.g.*, Treasury bills) and the remainder in long stock index futures contracts. To the extent that the underlying value of the stock index futures position does not exceed the value of the money market investment and the funds used to margin the futures position, the fund manager has effectively created a synthetic stock position in the amount of the new funds.

If the fund manager intends to convert the new funds into actual stock purchases, the position currently would be eligible for exemption from speculative limits as a hedge—in effect an anticipatory hedge. However, if, for whatever reason, there exists a likely prospect that the fund manager may not replace his synthetic stock position with actual stocks, the hedge status of the stock index futures position may be uncertain, as would be the position's current eligibility for an exemption from speculative limits. In accord with the provisions of this interpretation, in the latter circumstance the stock index futures position could be classified as a risk-management position and therefore eligible for exemption from speculative limits.

A variation of this institutional asset allocation strategy would involve a pension fund that is fully invested in both debt and equity securities. The fund manager may believe that market timing considerations favor a temporary increase in the fund's equity exposure relative to its debt exposure. Such a reallocation could be accomplished in numerous ways, including the actual sale of bond holdings and the simultaneous purchase of stocks. However, in view of the intended temporary nature of the reallocation of assets and in consideration of the potential transactions costs of such a shift if effected through the cash markets, the fund manager may choose to accomplish the reallocation using futures only. Such a shift could involve buying stock index futures and selling Treasury bond or Treasury note futures. Although the short Treasury bond or note futures position currently would be eligible for exemption from speculative limits as a hedge, the long stock index futures position would not. However, under appropriate exchange rules issued pursuant to this interpretation, the long stock index futures position could be eligible for a risk-management exemption from speculative limits.

The risk-management exemptions contemplated herein also could apply to certain strategies which utilize futures to extend the duration of a financial institution's investment portfolio, as distinguished from duration matching or immunization strategies. Consider the manager of an insurance company's bond portfolio who wishes to use a new allocation of cash to lengthen the duration of the portfolio. This can be accomplished by using all of the cash to purchase long-term coupon bonds, zero-coupon bonds, or a combination of the two. Alternatively, a portion of the cash could be retained, and bond futures contracts can be purchased.

If the general strategy of lengthening the fund's duration is undertaken in order to maintain an immunized bond position, *i.e.*, one that is free of interest-rate risk when considered in the context of the insurance company's liabilities, the bond futures position could be eligible for exemption from speculative limits as a "balance-sheet" hedge.[7] Alternatively, if the fund manager intends to convert the cash into actual bond purchases, the bond futures position could be eligible for a speculative limit exemption as an anticipatory hedge. However, even if neither of these conditions holds, the long bond futures position could be eligible for a risk-management exemption under exchange rules consistent with the provisions outlined in this interpretation.

An additional strategy that could involve debt- or equity-based options on futures or currency options which may fall under an appropriately framed risk-management exemption from speculative limits is covered option writing by financial institutions. The short call option position involved in such a strategy could qualify as a hedge and therefore be eligible for an exemption from speculative limits to the extent that the size of the option position is dynamically adjusted to maintain a close correspondence between the fluctuations in the value of the option position and those of the underlying cash market position (*i.e.*, to achieve delta neutrality). Alternatively, if the size of the short call position is not adjusted but is matched by a long put position of the same value and with the same expiration date and strike price, the resulting synthetic short futures position could qualify as a hedge of an existing cash market position and the matching option components could be eligible for speculative limit exemptions. However, if, to enhance its income, a government securities dealer or the

[6] The Commission recently addressed questions raised in the FPAC study regarding the hedge status of certain risk-reducing uses of futures and options (*e.g.*, in the context of portfolio immunization strategies) in an interpretation clarifying certain aspects of the hedging definition. See 52 FR 27195 (July 20, 1987).

[7] See the Commission's August 3, 1987, Federal Register notice on the hedging definition, *ibid.*

manager of a government bond fund, for example, were to write an amount of call options on Treasury bond futures equivalent in value to the portion of its holdings of long-term government debt to be used as cover for such options, the option position would not be eligible for a hedge exemption but could be eligible for a risk-management exemption from speculative limits under exchange rules consistent with the provisions of this interpretation.

IV. Risk-Management Exemption Guidelines

The Commission believes that it would be consistent with the objectives of section 4a of the Act and § 1.61 of its rules to consider approval, pursuant to section 5a(12) of the Act and Commission Regulation 1.41(b), of exchange rules which exempt from speculative limits the following risk management positions in debt-based, equity-based and foreign currency futures and options:

A. Long positions in futures, long calls, or short puts whose underlying commodity value does not exceed the sum of:

(1) Cash set aside in an identifiable manner or unencumbered short-term U.S. Treasury obligations so set aside, plus any funds deposited as margin on such positions; and

(2) Accrued profits on such positions held at the futures commission merchant.

B. Short calls whose underlying commodity value does not exceed the sum of:

(1) The value of securities or currencies underlying the futures contract upon which the option is based or underlying the option itself and which securities or currencies are owned by the trader holding such option position; and

(2) The value of securities or currencies whose price fluctuations are substantially related to the price fluctuations of the securities or currencies underlying the futures contract upon which the option is based or underlying the option itself and which securities or currencies are owned by the trader holding such option position.

C. Long positions in futures or long calls whose underlying commodity value does not exceed the sum of

(1) The value of equity securities, debt securities, or currencies owned and being hedged by the trader holding such futures or option position, provided that the fluctuations in value of the position used to hedge such securities are substantially related to the fluctuations in value of the securities themselves; and

(2) Accrued profits on such positions held at the futures commission merchant.

Moreover, the Commission recommends that exchange rules submitted pursuant to section 5a(12) of the Act should specify how the granting of exemptions for risk management positions would be consistent with the intent of Commission Rule 1.61. Of particular interest to the Commission are whether:

1. The cash market underlying the futures or option market has a high degree of demonstrated liquidity relative to the size of positions, and whether there exist opportunities for arbitrage which provide a close linkage between the cash market and the derivative market in question.

2. The positions are on behalf of a commercial entity, including parents, subsidiaries or other related entities, which typically buys, sells or holds the underlying or a related cash market instrument.

3. The positions will be subject to explicit exchange procedures concerning the approval and amendment of each applicant's exemption. Each such exemption should be contingent upon the nature of the position, the liquidity of the markets involved (including current market conditions), and the financial status of the position holder.

The Commission believes that the above points address regulatory concerns which are integral to Rule 1.61, particularly with respect to derivative market positions lacking an offsetting cash or derivative market position, *viz.*, the limited liquidity in certain derivative markets and the prospect of the abrupt liquidation of large, one-sided positions in the face of adverse price movements.[8] In that regard, the Commission has noted that the characteristics of the underlying cash market and the ability to conduct substantial arbitrage positions mitigate the degree to which large positions may influence prices in the derivative market.[9] Further, the fact that exempted positions would be matched by cash or cash equivalent set-asides should limit the possibility that such positions would be subjected to a forced liquidation due to financial considerations.[10]

This is not to say, however, that these conditions would alleviate all possible regulatory concerns. The Commission is aware that the capacity of a contract market to absorb large positions is not unlimited, notwithstanding mitigating characteristics of the cash market. (46 FR 50940). Accordingly, the Commission believes that all positions exempted, even including those for bona fide hedging and intermarket spreading or arbitrage, should be carefully determined and monitored by the exchanges. In particular, exchange rules permitting such exemptions should provide for determination of such exemptions on a case-by-case basis. The applicant should describe in writing the specific nature and size of the position to be exempted and otherwise include information relevant to the conditions discussed above. Further, the exchange should approve or otherwise specify a maximum size for each exempted position in view of the liquidity of the affected markets and the financial status of the trader. In addition, as with existing exchange rules permitting hedge, arbitrage and spread exemptions, the Commission believes that rules regarding risk management positions should make clear that traders who have applied for or been granted risk management exemptions should supplement their application as conditions relevant to their exemptions change and may be required to supply the exchange with additional information as requested and that the exchange can amend, revoke or otherwise limit the exemption for any good reason.[11] Finally, the Commission believes that, consistent with existing exchange speculative limit exemptions, exchanges should maintain procedures

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[8] See, for instance, 45 FR 79832–79833 (December 2, 1980).

[9] See, for instance, 45 FR 79832.

[10] In this respect, as noted above, a common characteristic of positions currently exempted under provisions for hedging or arbitrage is an offsetting position in another similar or closely related market.

[11] Paragraph (d) of Rule 1.61 requires the submission of certain materials in connection with position limits for each contract market. These include

(2) Any bylaw, rule, regulation or resolution which provides for exemptions from limits proposed under paragraphs (a) and (b) of this section, including an exemption for bona fide hedging, and

(4) A description of the method of enforcement of option and/or future position limits, which shall include a description of the procedures by which contract markets will determine hedging exemptions and the method of monitoring compliance with rules concerning bona fide hedging positions or any other exemptions.

The procedures and information requirements outlined in the text above closely parallel those embodied in exchange speculative limit rules previously approved by the Commission. For a discussion of such rules, see, for example, an April 16, 1982, memorandum to the Commission from the Division of Economics and Education concerning the application of the Chicago Mercantile Exchange for designation as a contract market in the Standard & Poor's 500 Stock Price Index.

for periodically reviewing risk-management exemptions.

The Commission notes that providing risk management exemptions to commercial entities who are typically engaged in buying, selling or holding cash market instruments is similar to a provision in the Commission's hedging definition, *viz.*, the risks to be hedged arise in the management and conduct of a commercial enterprise. Further, a provision that the entities typically are engaged substantially in the underlying or related cash markets appears consistent with the statements of the Agriculture Committees of both the House of Representatives and the Senate. The Commission believes that firms likely to meet this condition would include, but not necessarily be limited to, commercial banks, investment banks, investment companies, insurance companies and other investment firms in terms of these entities' responsibilities with respect to pension funds, endowment funds, trusts, mutual funds and other securities and currency portfolios.

The Commission welcomes the written views of any interested persons concerning this interpretation. In particular, the Commission is interested in receiving the views of the public regarding any additional positions which could be included under this exemption, consistent with its underlying rationale and the requirements of Regulation 1.61.

Issued in Washington, DC, on September 8, 1987, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87-21013 Filed 9-11-87; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Ivermectin Liquid

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Merck Sharp & Dohme Research Laboratories providing for safe and effective use of Eqvalan® (ivermectin) oral liquid in horses for treating and controlling certain parasites.

EFFECTIVE DATE: September 14, 1987.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., P.O. Box 2000, Rahway, NJ 07065-0914, filed NADA 140-439 which provides for use of Eqvalan® (ivermectin) oral liquid in horses for treating and controlling large strongyles, small strongyles, pinworms, ascarids, hairworms, large-mouth stomach worms, neck threadworms, bots, lungworms, intestinal threadworms, and summer sores caused by specified organisms. The product is to be administered to horses by stomach tube or as an oral drench at a dose of 200 micrograms per kilogram of body weight.

The NADA is approved, and the animal drug regulations are amended to reflect this approval by adding new § 520.1195 *Ivermectin liquid* (21 CFR 520.1195). The basis for approval is discussed 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) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 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)(iii) 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 520

Animal drugs.

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 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 520 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. Part 520 is amended by adding new § 520.1195 to read as follows:

§ 520.1195 Ivermectin liquid.

(a) *Specifications.* Each milliliter contains 10 milligrams of ivermectin.

(b) *Sponsor.* See No. 000006 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount.* 200 micrograms per kilogram of body weight as a single dose.

(2) *Indications for use.* It is used in horses for the treatment and control of large strongyles (adult) (*Strongylus equinus*), (adult and arterial larval stages) (*Strongylus vulgaris*), (adult and migrating tissue stages) (*Strongylus endentatus*), (adult) (*Triodontophorus* spp.); small strongyles, including those resistant to some benzimidazole class compounds (adult and fourth stage larvae) (*Cyathostomum* spp., *Cylicocyclus* spp., *Cylicodontophorus* spp., *Cylicostephanus* spp.); pinworms (adult and fourth stage larvae) (*Oxyuris equi*); ascarids (adult) (*Parascaris equorum*); hairworms (adult) (*Trichostongylus axei*); large mouth stomach worms (adult) (*Habronema muscae*); stomach bots (oral and gastric stages) (*Gastrophilus* spp.); lungworms (adults and fourth stage larvae) (*Dictyocaulus arnfieldi*); intestinal threadworms (adults) (*Strongyloides westeri*); summer sores caused by *Habronema* and *Draschia* spp. cutaneous third stage larvae; and dermatitis caused by neck threadworm microfilariae (*Onchocerca* spp.).

(3) *Limitations.* Administer by stomach tube or as an oral drench. Do not use in horses intended for food purposes. Safety has not been demonstrated in horses under 4 months old. Do not administer to foals of this age class. Federal law restricts this drug to us by or on the order of a licensed veterinarian.

Dated: September 3, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87-21051 Filed 9-11-87; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 752

Landscape and Roadside Development

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is amending its regulation on landscape development to implement a requirement for planting native wildflowers along Federal-aid highways. Section 130 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 amended 23 U.S.C. 319 by adding a requirement that at least one-quarter of one percent of funds expended for landscaping projects be used to plant native wildflowers. This provision requires every landscaping project to include the planting of native wildflower seeds and/or seedlings, unless a waiver has been granted.

EFFECTIVE DATE: September 14, 1987.

FOR FURTHER INFORMATION CONTACT: Eugene Johnson, Environmental Analysis Division (202–366–9173) or Michael J. Laska, Office of Chief Counsel (202–366–1383), Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: The Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) (Pub. L. 100–17, 101 Stat. 132) was enacted on April 2, 1987. Section 130 of the STURAA amended 23 U.S.C. 319 by adding a requirement that native wildflower seeds or seedlings or both be planted as part of any landscaping project undertaken on the Federal-aid highway system. At least one-quarter of one percent of the funds expended for such landscaping projects must be used to plant native wildflowers. A waiver of this requirement can be granted by FHWA if a State certifies that native wildflowers or seedlings cannot be grown satisfactorily or that there is an overall scarcity of available planting areas or that the available planting areas will be used for agricultural purposes. Previously, the States planted wildflowers on a voluntary basis, generally, with State garden clubs donating the wildflower seeds. Section 130 does not prohibit the acceptance of native wildflower seeds or seedlings donated by civic organizations or other organizations and individuals to be used in landscaping projects. However, the value of donated plant materials may not be counted toward the required minimum expenditure.

Regulatory Impact

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or significant regulation under the regulatory policies and procedures of the Department of Transportation. Since the revisions in this document are being issued for the purpose of literally complying with statutory language mandated by section 130 of the STURAA of 1987, public comment is impracticable and unnecessary. Therefore, the FHWA finds good cause to make the revisions final without notice and opportunity for comment and without a 30-day delay in effective date under the Administrative Procedure Act. Notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action could result in the receipt of useful information, since the revisions incorporated in the regulation require no interpretation and provide for no discretion. It is anticipated that the economic impact of this rulemaking, although mandated by the statutory provisions themselves, will be minimal. Therefore, a full regulatory evaluation is not required. For this reason and under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

In consideration of the foregoing, the FHWA is amending Part 752 of Title 23, Code of Federal Regulations, as set forth below. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372, regarding intergovernmental consultation on Federal programs and activities, apply to this program.)

List of Subjects in 23 CFR Part 752

Government contracts, Grant programs—Transportation, Highways and roads, Landscape development, Roadside development, Wildflowers.

Issued on: September 2, 1987.

R.A. Barnhart,

Federal Highway Administrator.

PART 752—LANDSCAPE AND ROADSIDE DEVELOPMENT

The Federal Highway Administration hereby amends Part 752 of Title 23, Code of Federal Regulations, as follows:

1. The authority citation for Part 752 continues to read as follows:

Authority: 23 U.S.C. 131, 315, 319; 42 U.S.C. 4321, *et seq.*; 49 CFR 1.48(b), unless otherwise noted.

2. Section 752.3 is amended by adding paragraph (e) to read as follows:

§ 752.3 Definitions.

* * * * *

(e) *Landscape project.* Any action taken as part of a highway construction project or as a separate action to enhance the esthetics of a highway through the placement of plant materials consistent with a landscape design plan. Seeding undertaken for erosion control and planting vegetation for screening purposes shall not constitute a landscaping project.

3. Section 752.4 is amended by revising paragraph (a) and (b) and by adding paragraph (e) to read as follows:

§ 752.4 Landscape development.

(a) Landscape development, *which includes landscaping projects and other highway planting programs* within the right-of-way of all federally funded highways or on adjoining scenic lands, shall be in general comformity with accepted concepts and principles of highway landscaping and environmental design.

(b) *Landscape development* should have provisions for plant establishment periods of a duration sufficient for expected survival in the highway environment. Normal 1-year plant establishment periods may be extended to 3-year periods where survival is considered essential to their function, such as junkyard screening or urban landscaping projects.

* * * * *

(e) Landscaping projects shall include the planting of native wildflower seeds or seedlings or both, unless a waiver is granted as provided in § 752.11(b).

4. Section 752.11 is revised to read as follows:

§ 752.11 Federal participation.

(a) Federal-aid highway funds, but generally excluding Interstate construction funds, are available for landscape development; for the

acquisition and development of safety rest areas, scenic overlooks, and scenic lands; for the development of information centers and systems; and for the removal of abandoned motor vehicles.

(b) Federal-aid highway funds may participate in any landscaping project undertaken pursuant to paragraph (a) of this section provided that at least one-quarter of one percent of funds expended for such landscaping project is used to plant native wildflower seeds or seedlings or both. The Administrator may, upon the request of a State highway agency, grant a waiver to this requirement provided the State certifies that:

(1) Native wildflowers or seedlings cannot be grown satisfactorily; or

(2) There is a scarcity of available planting areas; or

(3) The available planting areas will be used for agricultural purposes.

(c) Subject to the requirement of paragraph (b) of this section, Federal-aid highway funds may participate in plant establishment periods in or associated with landscape development.

(d) Notwithstanding the provisions of paragraph (b) of this section, Federal-aid highway funds may participate in the planting of flowering materials, including native wildflowers, donated by garden clubs and other organizations or individuals.

(e) The value of donated plant materials shall not count toward the one-quarter of one percent minimum expenditure required by paragraph (b) of this section.

(f) Federal-aid funds may not be used for assemblage, printing, or distribution of information materials; for temporary or portable information facilities; or for installation, operation, or maintenance of vending machines.

[FR Doc. 87-21071 Filed 9-11-87; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 165

[DoD Directive 4105.66]

Suspension and Debarment of Nonappropriated Fund Contractors

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This rule removes Part 165 in its entirety. The Part is no longer valid because it does not support current Department of Defense policy emphasizing central monitoring and coordination of contract fraud investigators and remedies.

EFFECTIVE DATE: January 8, 1987.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Bynum, Directives Division, Correspondence and Directives Directorate, Washington Headquarters Services, Washington DC 20301-1155, telephone (202) 697-4111.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 165

Armed forces, Conflict of interests, Government employees, Government procurement, Reporting and recordkeeping requirements.

PART 165—[REMOVED]

Accordingly, Title 32, Chapter I is amended to remove Part 165.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

September 8, 1987.

[FR Doc. 87-21031 Filed 9-11-87; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3235-2]

Standards of Performance for New Stationary Sources; Test Methods in Appendix A and Performance Specifications in Appendix B; Technical Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is correcting errors in the test methods and performance specifications in Appendices A and B of 40 CFR Part 60 in the Code of Federal Regulations. Errors in the test methods and performance specifications that have been overlooked over the years are corrected by this action.

EFFECTIVE DATE: September 14, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Roger T. Shigehara at (919) 541-2237.

SUPPLEMENTARY INFORMATION:

List of Subjects in 40 CFR Part 60

Air pollution control, Electric utility steam generating units, Incorporation by reference, Intergovernmental relations, Kraft pulp mills, Nitric acid plants, Portland cement plants, Primary copper smelters, Reporting and recordkeeping requirements, Sewage treatment plants, Sulfuric acid plants.

Dated: September 3, 1987.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

The following corrections are made in Appendices A and B of 40 CFR Part 60 as published in the Code of Federal Regulations, revised as of July 1, 1986.

PART 60—[AMENDED]

1. The authority for 40 CFR Part 60 continues to read as follows:

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

Appendix A—[Amended]

Method 1—[Amended]

2. Appendix A, Method 1 is amended as follows:

(a) By revising Figures 1-1, 1-2, and 1-3 as shown:

BILLING CODE 6560-50-M

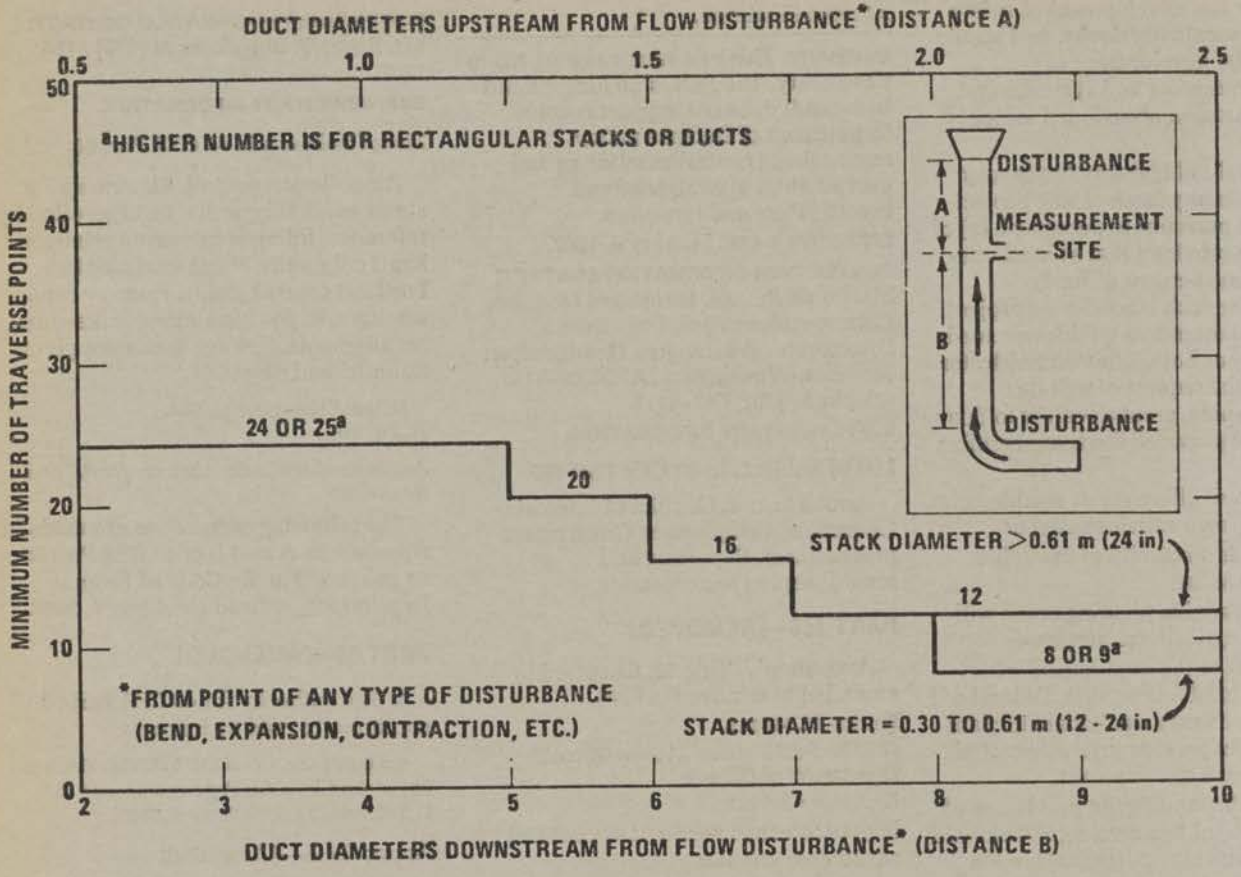


Figure 1-1. Minimum number of traverse points for particulate traverses.

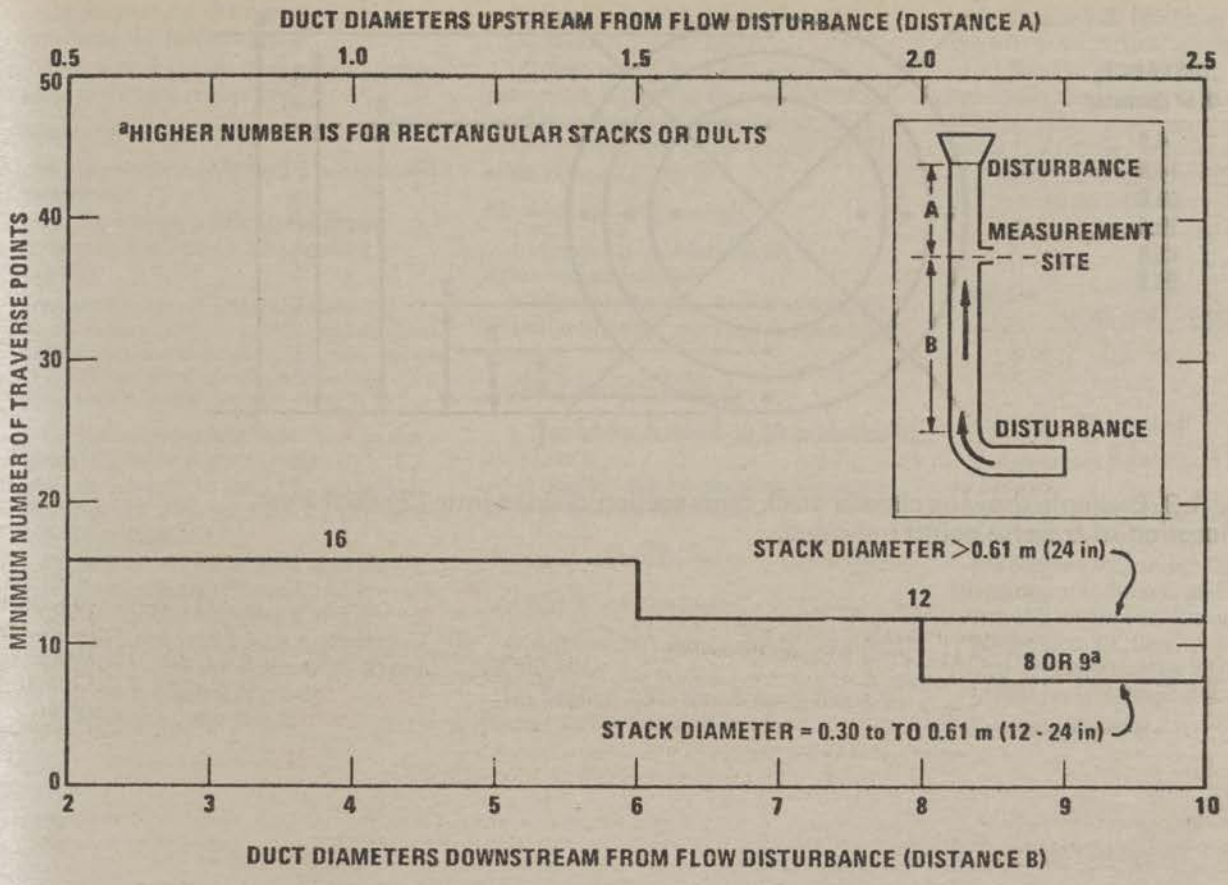


Figure 1-2. Minimum number of traverse points for velocity (nonparticulate) traverses.

TRAVERSE POINT	DISTANCE, % of diameter
1	4.4
2	14.6
3	29.6
4	70.4
5	85.4
6	95.6

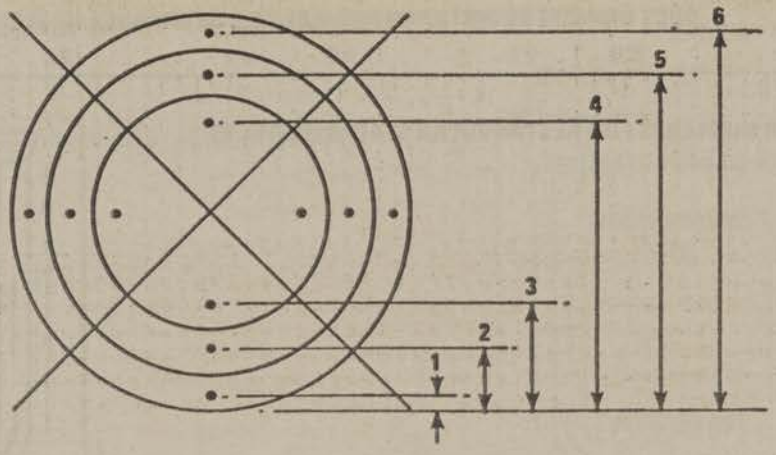


Figure 1-3. Example showing circular stack cross section divided into 12 equal areas, with location of traverse points indicated.

BILLING CODE 6560-50-C

(b) Section 2.4, third paragraph, by removing the last sentence:

"The limit of acceptability for the average value of α would remain 20°".

Method 2—[Amended]

3. Appendix A, Method 2 is amended as follows:

(a) By adding a title to the figure following Section 4.1.2 to read as follows:

Figure 2–6. Proper pitot tube-sampling nozzle configuration to prevent aerodynamic interference; buttonhook-type nozzle; centers of nozzle and pitot opening aligned: D_t between 0.48 and 0.95 cm (3/16 and 3/8 in.).

(b) By adding a bar over "C_p" in the terms "C_p (side A)", "C_p (side B)", "C_p (A)", or "C_p (B)" to read "$\overline{C}_p$ (side A)", "$\overline{C}_p$ (side B)", "$\overline{C}_p$ (A)", or "$\overline{C}_p$ (B)" in the following places:

(1) Section 4.1.4.2, lines 1 and 2.
(2) Section 4.1.4.3, lines 2 and 4.
(3) Section 4.1.4.5, lines 4 and 5.
(4) Section 4.1.5.1.1, line 6, (twice).

(c) By revising the symbol "δ" to read "σ" in the following places:

(1) Section 4.1.4.4, line 1.
(2) Section 4.1.4.5, line 2 (twice).
(3) Section 4.1.5.3, line 8.

(d) Section 5.3, by adding a new paragraph following Equation 2–10 to read as follows: "To convert Q_{sd} from dscm/hr (dscf/hr) to dscm/min (dscf/min), divide Q_{sd} by 60."

Method 2A—[Amended]

4. Appendix A, Method 2A is amended as follows:

(a) Section 2.1, line 6, by revising the specification "± percent" to read "±2 percent".

Method 2B—[Amended]

5. Appendix A, Method 2B is amended as follows:

(a) Section 4.4, by revising Equation 2B–2 to read as follows:

$$Q_{ca} = V_{ca}/\theta \qquad \text{Eq. 2B–2}$$

Method 3—[Amended]

6. Appendix A, Method 3 is amended as follows:

(a) Section 2.2.7, line 2, by revising the figure "28" to read "30".

(b) Figure 3–3, footnote, by revising the last term "<10%" to read "<|10%|".

(c) Section 4.2.7, NOTE, line 4, by removing the words "Citation 5 in the Bibliography" and inserting in their place the words "Section 4.4.1".

(d) Section 6.2, by revising Equation 3–1 to read as follows:

$$\%EA = \frac{\%O_2 - 0.5\%\ CO}{0.264\ \%N_2 - (\%O_2 - 0.5\ \%CO)}$$

Eq. 3–1

Method 5—[Amended]

7. Appendix A, Method 5 is amended as follows:

(a) Section 2.1.1, line 3, by revising the figure "30°" to read "<30°".

(b) Section 4.2, under *Container No. 2*, 5th paragraph, lines 1 and 2, by removing the words "be used to".

(c) Section 5.1, line 5, by revising the figure "01.025" to read "0.025".

(d) By revising Figure 5–6 as shown:

BILLING CODE 6560-50-M

Date_____ Metering System Identification:_____

Barometric pressure, P_b = _____ in. Hg

Orifice manometer setting ΔH in. H_2O	Spirometer (wet meter) gas volume V_w ft^3	Dry gas meter volume V_m ft^3	Temperatures: Spirometer (wet meter) t_w °F	Temperatures: Dry Gas Meter Inlet t_i °F	Temperatures: Dry Gas Meter Outlet t_o °F	Temperatures: Dry Gas Meter Average t_m °F	Time θ min

Calculations

ΔH in. H_2O	Y: $\frac{V_w P_b (t_m + 460)}{V_m \left[P_b + \frac{\Delta H}{13.6}\right] (t_w + 460)}$	$\Delta H@$: $\frac{0.0317\ \Delta H}{P_b (t_o + 460)} \left[\frac{(t_w + 460)\ \theta}{V_w}\right]^2$
Average		

Y = Ratio of reading of wet test meter to dry test meter; tolerance for individual values ±0.02 from average.

$\Delta H_@$ = Orifice pressure differential that equates to 0.75 cfm of air @ 68°F and 29.92 inches of mercury, in. H_2O; tolerance for individual values ±0.20 from average.

Figure 5.6. Example data sheet for calibration of metering system (English units).

BILLING CODE 6560-50-C

(e) Section 6.1, third term (C_a), by revising the units "mg/g" to read "mg/mg".

(f) Section 6.10, by adding to the conversion factor table under the appropriate headings the following: From "g" To "mg" Multiply by "0.001".

(g) Section 6.11.1, Equation 5–7, by revising the term "P_m" in the numerator to read "V_m Y".

(h) By adding a new Section 6.13 after Section 6.12 to read as follows:

6.13 Stack Gas Velocity and Volumetric Flow Rate. Calculate the average stack gas velocity and volumetric flow rate, if needed, using data obtained in this method and the equations in Sections 5.2 and 5.3 of Method 2.

Method 5A—[Amended]

8. Appendix A, Method 5A is amended as follows:

(a) Section 6.1, first term, C_t, by revising the units "mg/g" to read "mg/mg".

(b) By adding a heading on a separate line after the nomenclature of Section 6.4 and before Eq. 5A–2 to read as follows:

6.5 Moisture Content.

(c) In the newly designated Section 6.5, NOTE after Equation 5A–2, fourth from last line, by revising "Figure 2" to read "Figure 5–2 of Method 5".

Method 5D—[Amended]

9. Appendix A, Method 5D is amended as follows:

(a) Section 4.3, by adding an equation number to the right of the equation to read "Eq. 5D–1".

(b) Section 6.2, by adding an equation number to the right of the equation to read "Eq. 5D–2".

(c) In Section 6.2, in the text following the equation, by revising the two occurrences of the unit "Nm^3" to read "sm^3".

Method 5E—[Amended]

10. Appendix A, Method 5E is amended as follows:

(a) Section 6.1, by revising Eq. 5E–2 to read as follows:

$$m_c = 0.001\ C_{toc}\ V_s$$

Eq. 5E–2

(b) Section 6.1, nomenclature list, third term, by revising the term "C_c" to read "C_{toc}".

Method 6B—[Amended]

11. Appendix A, Method 6B is amended as follows:

(a) Section 4.2, line 3, by removing the words "ascarite bubbler" and inserting in their place the words "CO_2 absorber".

Method 6C—[Amended]

12. Appendix A, Method 6C is amended as follows:

(a) Section 6.4.1, line 4, by revising "Figure 6C–6" to read "Figure 6C–5".

Method 7—[Amended]

13. Appendix A, Method 7 is amended as follows:

(a) Section 4.1.1, by revising the term "V_i" to read "P_i".

(b) Section 5.2.2, nomenclature, 1st term (K_c), by adding a comma after the word "factor" and adding the units "μg" to read "factor, μg.".

(c) By adding a heading on a separate line before Equation 7–3 ($m = 2K_cAF$) to read "6.3 Total μg NO_2 Per Sample.".

(d) Section 6.4, after Equation 7–4, by adding the nomenclature and a sentence to read as follows:

Where:

$K_2 = 10^3$ (mg/scm)/(μg/ml) for metric units.
$= 6.242 \times 10^{-5}$ (lb/scf)/(μg/ml) for English units.

To convert from mg/dscm to g/dscm, divide C by 1,000.

Method 7A—[Amended]

14. Appendix A, Method 7A is amended as follows:

(a) Section 4.5, by revising the heading to read "Audit Sample Analysis.".

(b) Section 6.2, by adding a new paragraph after the fourth term in the nomenclature of Equation 7A–1 and just before the paragraph that begins "If desired, the concentration . . ." to read, "To convert from mg/dscm to g/dscm, divide C by 1000.".

Method 7B—[Amended]

15. Appendix A, Method 7B is amended as follows:

(a) Section 5.1, NOTE, by inserting "K_c" between the words "factor" and "as" to read ". . . factor K_c as . . .".

Method 7C—[Amended]

16. Appendix A, Method 7C is amended as follows:

(a) Section 3.2.12, line 2, by revising the figure "100" to read "1000".

(b) Section 6.4, by adding to the list the conversion factor "1000 mg=1 g.".

Method 7D—[Amended]

17. Appendix A, Method 7D is amended as follows:

(a) Section 6.4, by adding to the list the conversion factor "1000 mg=1 g.".

Method 8—[Amended]

18. Appendix A, Method 8 is amended as follows:

(a) Section 6.1, sixth term, "N", by revising the units "g equivalents/liter" to read "meq/ml".

(b) Section 6.7.1, Eq. 8–4, by adding the term "Y" next to term "V_m" in the numerator to read "$V_m Y$".

(c) By adding a new Section 6.9 after Section 6.8 to read as follows:

6.9 Stack Gas Velocity and Volumetric Flow Rate. Calculate the average stack gas velocity and volumetric flow rate, if needed, using data obtained in this method and the equations in Sections 5.2 and 5.3 of Method 2.

Method 9—[Amended]

19. Appendix A, Method 9 is amended as follows:

(a) Section 2.2, by adding the words "a sketch of the observer's position relative to the source," between the words "affiliation," and "and" to read ". . . affiliation, a sketch of the observer's position relative to the source, and . . ."

(b) Section 3.3.2.3, line 5, by adding the symbol Φ before the equal sign and figure "=2" to read "Φ=2".

Method 11—[Amended]

20. Appendix A, Method 11 is amended as follows:

(a) Section 5.1.3, by adding the heading and period "Tubing." between "5.1.3" and "Glass" to read "5.1.3 Tubing. Glass . . ."

(b) Section 6.3.3, line 3, by revising the chemical symbol "C_6H_5AsD" to read "C_6H_5AsO".

(c) Section 8.1.1, second from last line, by revising the equation number "9.3" to read "11–3".

(d) Section 8.1.2, by revising "equation 9.1" to read "Equation 11–1".

(e) Section 8.1.3, third from last line, by revising the equation number "9.2" to read "11–2".

(f) Section 9.1, by adding an equation number to the right of the equation to read "Eq. 11–1".

(g) Section 9.2, by adding an equation number to the right of the equation to read "Eq. 11–2".

(h) Section 9.3, by adding an equation number to the right of the equation to read "Eq. 11–3".

(i) Section 9.3, NOTE, line 3, by revising the equation number "9.3" to read "11–3".

(j) Section 9.4, by revising the equation number "Eq. 11–5" to read "Eq. 11–4".

(k) Section 9.5, by adding an equation number to the right of the equation to read "Eq. 11–5".

(l) Section 9.5, NOTE, by revising the equation number "9.5" to read "11–5".

Method 13A and 13B—[Amended]

21. Appendix A, Methods 13A and 13B are amended as follows:

(a) Method 13A, Section 9.1, nomenclature, the third term, C_s, by adding the units after the units "mg/m³" to read "(mg/ft³)".

(b) Method 13A, Section. 9.5.2, by removing the symbol "K" from Equation 13A–2 and by removing the nomenclature after the equation.

(c) Method 13B, Section 9.3, by revising the unit of the symbol "K" ("mg/ml") to read "mg/millimole".

Method 14—[Amended]

22. Appendix A, Method 14 is amended as follows:

(a) Section 6.4, by removing the words "(in mg F/dscm)".

(b) Section 6.4.2, nomenclature, first term, $\overline{C_s}$, by adding the units after the units "mg F/dscm" to read "(mg F/dscf)".

(c) Section 6.4.2, nomenclature, third term, $V_{m(std)}$, by adding the unit after the unit "dscm" to read "(dscf)".

(d.) Section 6.5, by revising Equation 14–3 to read as follows:

$$Q_{sd} = \frac{V_{mt} M_d P_m (293\ ^\circ K) A}{(t_m + 273^\circ)(760\ mm\ Hg)} \qquad \text{Eq. 14–3}$$

(e) Section 6.5, nomenclature, by revising the term "Q_m" to read "Q_{sd}" and the term "T_m" to read "t_m".

(f) By adding a new Section 6.6 after Section 6.5 to read as follows:

6.6 Conversion Factors.

1 $ft^3 = 0.02832\ m^3$

1 hr = 60 min

Method 15—[Amended]

23. Appendix A, Method 15 is amended as follows:

(a) Section 3.2, third from last line, by revising the word "chromatographs" to read "chromatograms".

(b) Section 5, by adding the heading "5.1 Sampling." on the next line following the heading "5. *Apparatus*".

(c) Section 5.1.2, by adding the heading "Sample Line." between the section number "5.1.2" and the word "The" to read "5.1.2 Sample Line. The . . ."

(d) Section 5.4, second paragraph, line 3, by revising the word "chromatograph" to read "chromatogram".

(e) Section 5.5.3, last line, by revising the temperature "±1.1 °C" to read "±0.1 °C".

(f) Section 10.3, line 4, by revising the section number "paragraph 10.1" to read "Section 10.2", and in line 6, by revising the word "paragraph" to read "Section".

(g) Section 11.3, nomenclature, by revising the second term to read "SO_2 equivalent$_i$".

(h) By adding Figures 15–1, 15–2, and 15–3 to Method 15 after Section 12.1.4.

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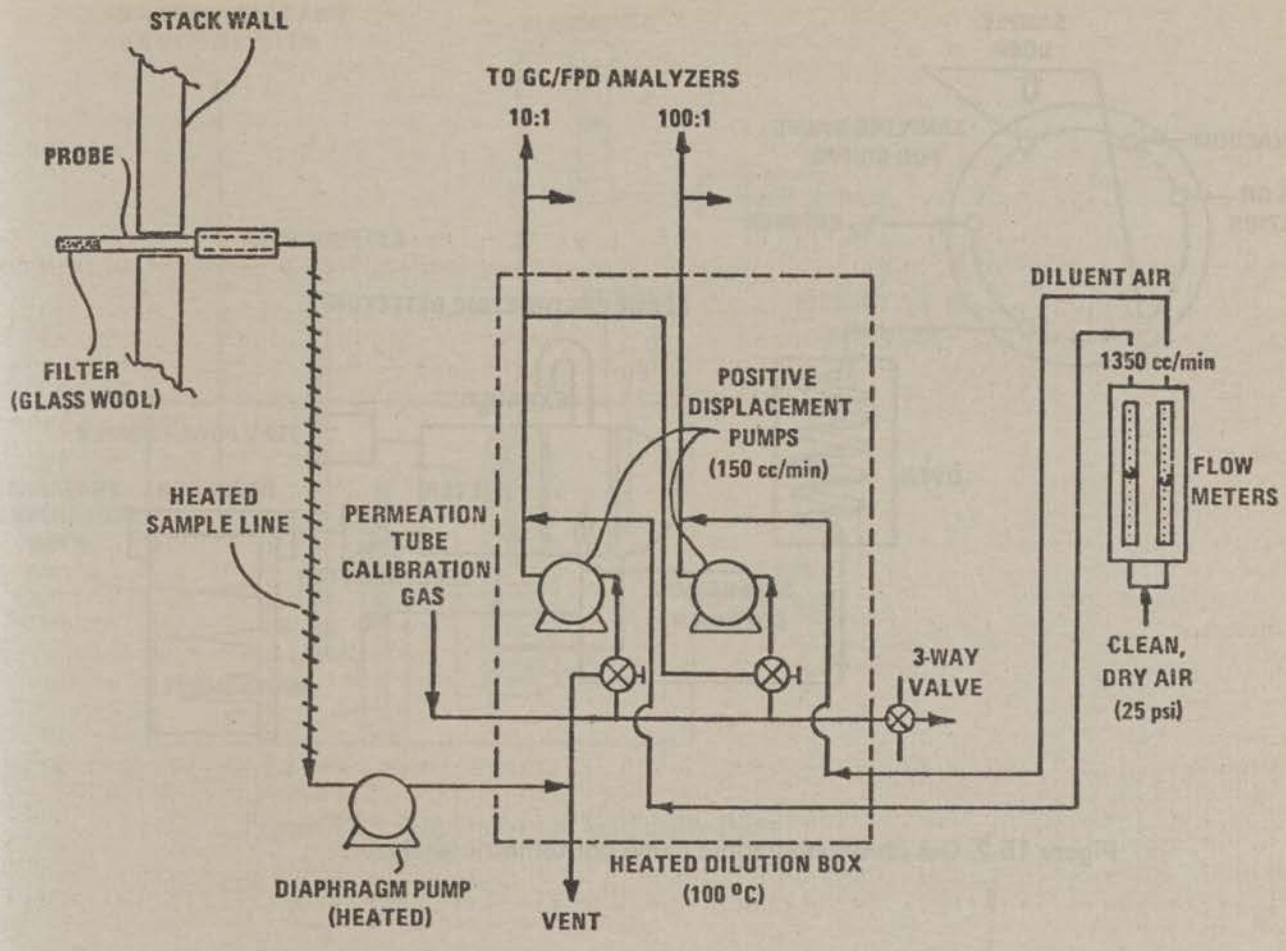


Figure 15-1. Sampling and dilution apparatus.

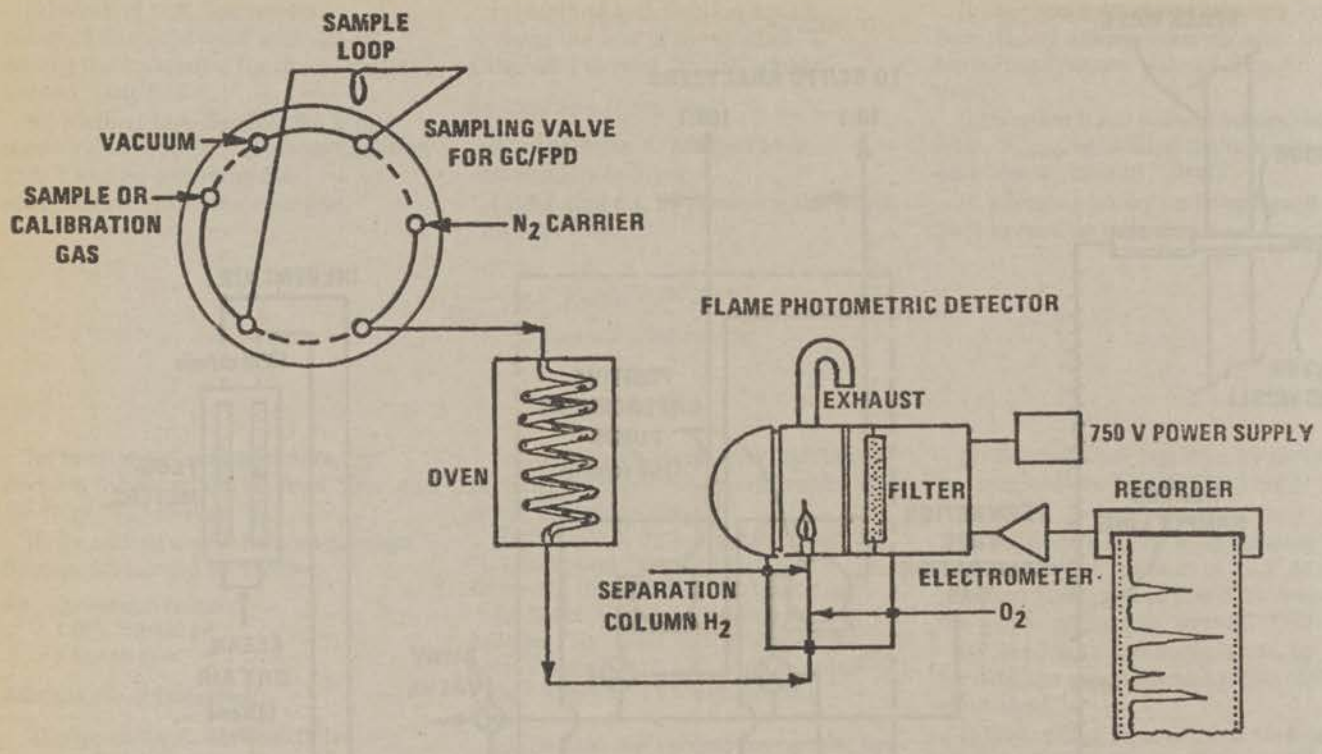


Figure 15-2. Gas chromatographic flame photometric analyzer.

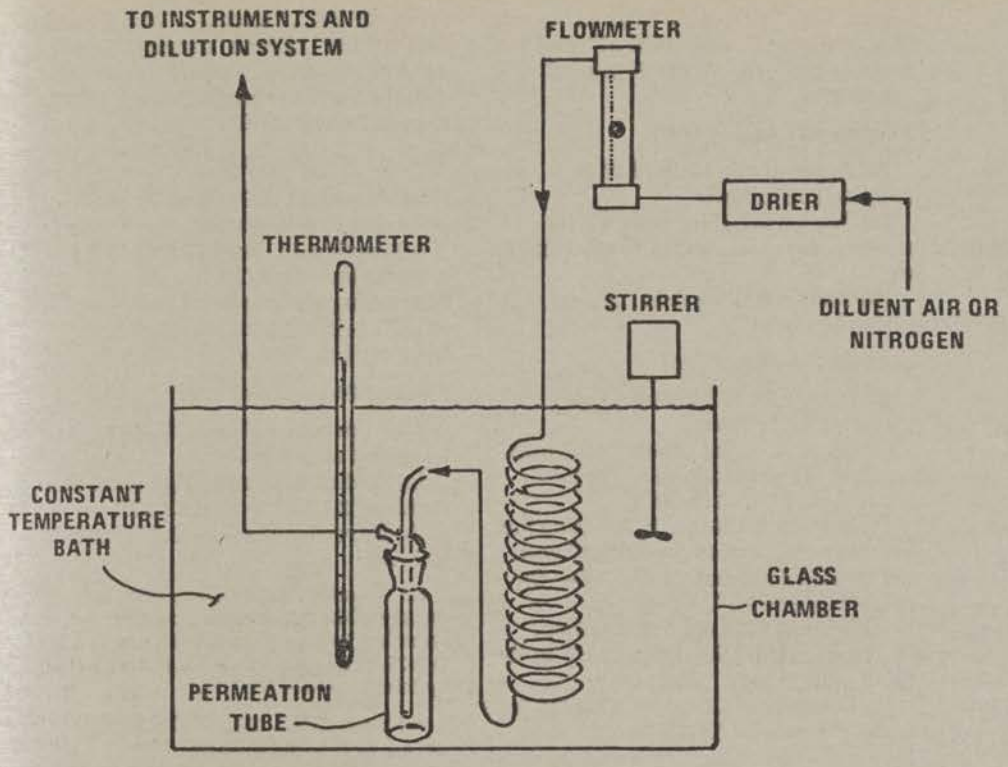


Figure 15-3. Apparatus for field calibration.

BILLING CODE 6560-50-C

Method 16—[Amended]

24. Appendix A, Method 16 is amended as follows:

(a) By revising Section 2.2 to read as follows:

2.2 Sensitivity. Using the 10-ml sample size, the minimum detectable concentration is approximately 50 ppb.

(b) Section 3.2, third from last line, by revising the word "chromatographs" to read "chromatograms".

(c) Section 3.4, by revising the word "chromatographs" to read "chromatograms".

(d) Section 3.4 and Section 4.2, by revising the specification "± percent" to read "±5 percent" and "±10 percent," respectively.

(e) Section 5, by removing the parentheses and words "(See Figure 16–1)".

(f) Section 5.1.1, by adding the sentence "See Figure 16–1." between the heading "Probe." and the word "The" to read "5.1.1 Probe. See Figure 16–1. The . . ."

(g) Section 5.1.2, line 3, by adding the unit "in." to the figure "(½)" to read "(½ in.)".

(j) Section 5.5, second paragraph, line 3, by revising the word "chromatograph" to read "chromatogram".

(i) Section 10.3, line 4, by revising "paragraph 10.1" to read "Section 10.2".

Method 16A—[Amended]

25. Appendix A, Method 16A is amended as follows:

(a) Section 6.3, second equation, by revising the figure "32.02" to read "32.03"; by removing the hyphens in the terms "1-g", "1000-ml", "1000-μl" to read "1 g", "1000 ml", and "1000 μl"; and by revising the term "64.06–9" to read "64.06 g".

Method 17—[Amended]

26. Appendix A, Method 17 is amended as follows:

(a) Section 6.1, third term, C_a, by revising the units "mg/g" to read "mg/mg".

(b) Section 6.1, the term "$\approx_w$" is revised to read "p_w".

Method 19—[Amended]

27. Appendix A, Method 19 is amended as follows:

(a) Section 3.2, by revising the word "outlet" in the definition of the third term, E_{SO2i}, to read "inlet".

(b) Section 5.1, line 1, by revising the first occurrence of the word "or" with the chemical symbols "SO_2 or O_2" to read "SO_2 and O_2".

(c) Section 5.2.2, second equation, "F_w", by revising the figure "25.5" in the numerator to read "28.5".

(d) Section 5.3.1.2, by revising the term under the second NOTE to read as follows:

$$\frac{20.9}{20.9\,(1-B_{wa})-\%O_{2w}}$$

(e) Section 5.3.1.3, second paragraph, line 3, by revising the term "$\%O_{2d}$" to read "$\%O_{2w}$".

(f) Section 5.3.2.1, by removing "Insert Illus. 0193C".

(9) Table 19–1, headings, by adding slash marks "/" to the units "dscm J", "dscf 10^6 Btu", "wscm J", "scm J", and "scf 10^6 Btu" to read "dscm/J", "dscf/10^6 Btu", wscm/J", "scm/J", and "scf/10^6 Btu"; and to change "wscf J 10^6 Btu" to read "wscf/10^6 Btu".

Method 20—[Amended]

28. Appendix A, Method 20 is amended as follows:

(a) Section 5.1, lines 11 and 12, by revising the name "Environmental Monitoring and Support Laboratory" to read "Environmental Monitoring Systems Laboratory".

Method 24A—[Amended]

29. Appendix A, Method 24A is amended as follows:

(a) Section 2, by revising the section number "2.1.1.5" to read "2.1.2".

(b) By revising Section 2.2 to read as follows:

2.2 Coating Density. Determine the density of the ink or related coating according to the procedure outlined in ASTM D 1475–60 (reapproved 1980), (incorporated by reference—see § 60.17).

(c) Section 3.2, by revising Equation 24A–2 to read as follows:

$$V_o=(\overline{W}_o\,\overline{D}_c)/\overline{D}_o \qquad \text{Eq. 24A-2}$$

Appendix B—[Amended]

30. Appendix B, Performance Specification 1 is amended as follows:

(a) Section 1.1 (b), line 1, by removing the paragraph number "5.1.5".

(b) Section 4.2.2, line 2, by revising the figure "1" to read "4".

(c) By revising Figures 1–3, 1–4, and 1–5 as shown:

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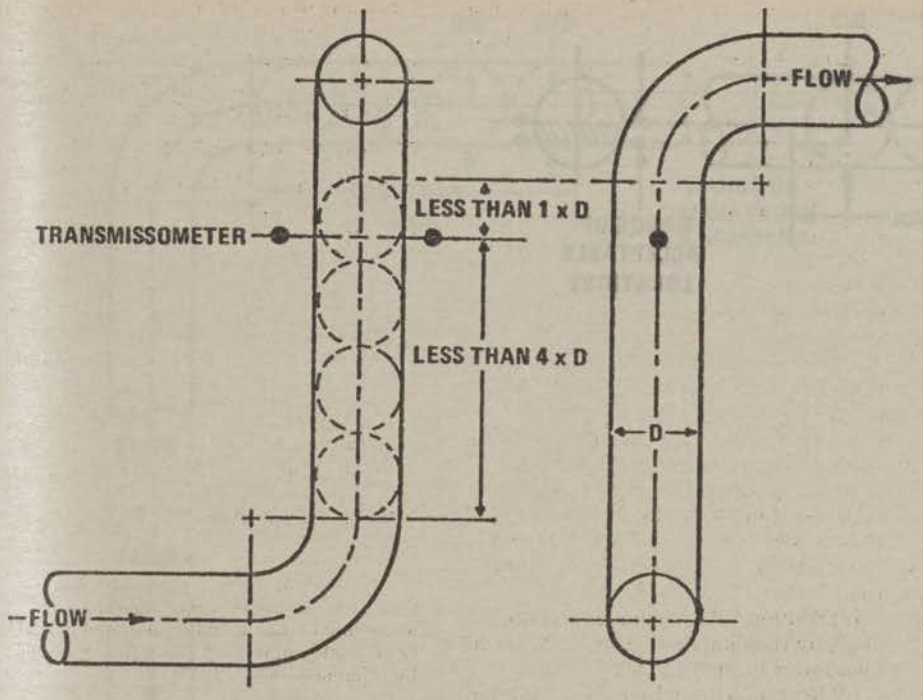
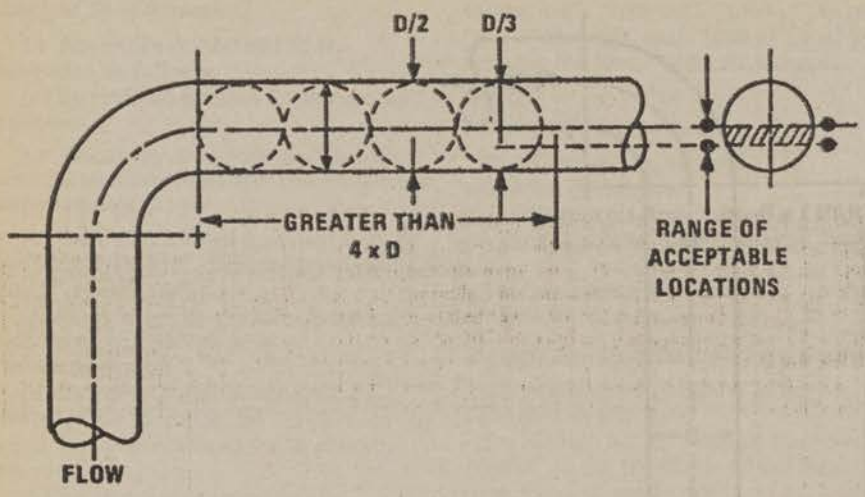


Figure 1-3. Transmissometer location between bends in a vertical stack.



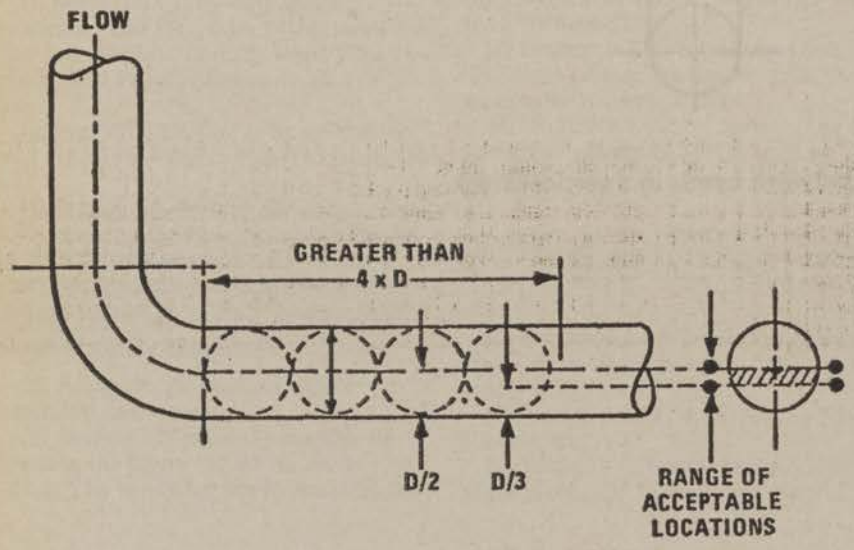


Figure 1-4. Transmissometer location greater than four diameters downstream of a vertical bend in a horizontal stack.

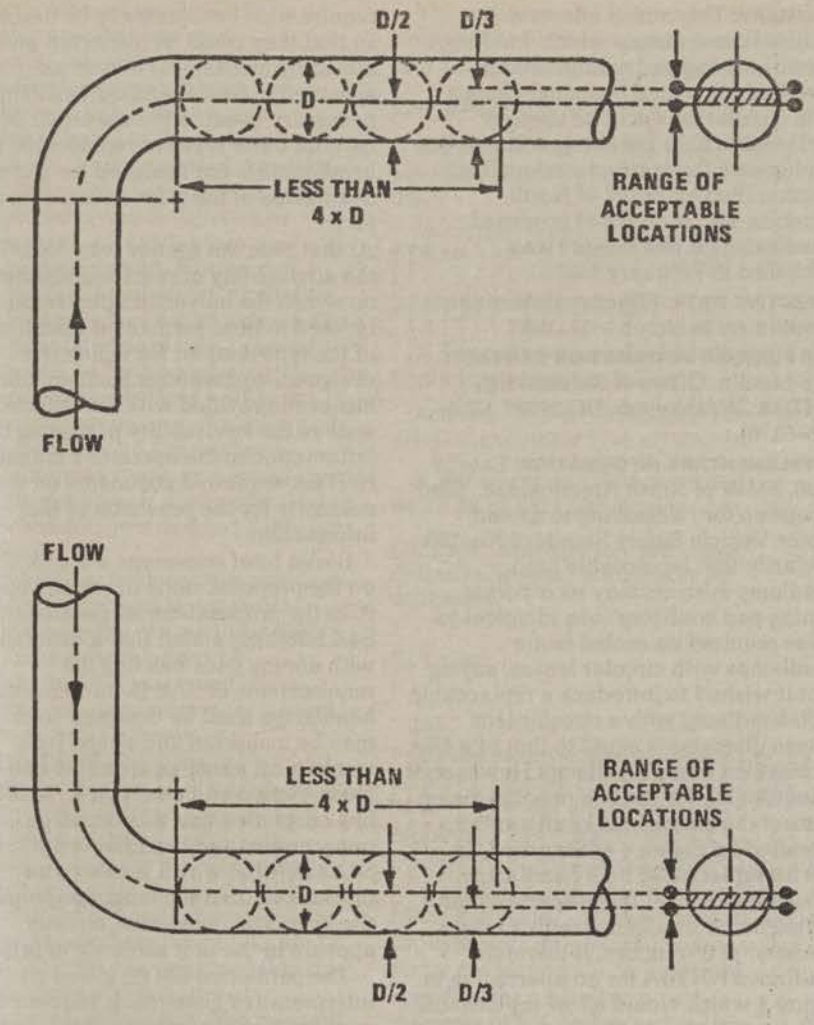


Figure 1-5. Transmissometer location less than four diameters downstream of a vertical bend in a horizontal stack.

BILLING CODE 6560-50-C

(d) Section 7.1.4, by revising the equation numbers "1–5 or 1–6" to read "1–6 or 1–7".

[FR Doc. 87–20760 Filed 9–11–87; 8:45 am]
BILLING CODE 6560–50–M

40 CFR Part 798

[OPTS–42079A; FRL–3260–7]

Revision of Toxic Substances Control Act Test Guidelines; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA is correcting the final rule that amended the Toxic Substances Control Act (TSCA) test guidelines to provide more explicit guidance on the necessary minimum elements of each study, which appeared in the **Federal Register** of May 20, 1987 (52 FR 19056).

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

SUPPLEMENTARY INFORMATION: In FR Doc. 87–11124, in the issue for Wednesday, May 20, 1987, the following change is made on page 19081:

§ 798.5395 [Corrected]

Under § 798.5395 *In vivo mammalian bone marrow cytogenetics tests: Micronucleus assay,* in item 16.b.iii., paragraph (2), line 2, correct "At least 200" to "At least 1,000." The context of the paragraph makes clear that 1,000 was the intended number.

Dated: September 2, 1987.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 87–21046 Filed 9–11–87; 8:45 am]
BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 81–11; Notice 23]

Federal Motor Vehicle Safety Standards; Lamps Reflective Devices and Associated Equipment

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

ACTION: Final rule.

SUMMARY: This notice adopts a technical amendment which, in effect, permits aiming pad configurations specified for sealed beam headlamps with circular lenses to be used on replaceable bulb headlamps. The notice implements the grant of a rulemaking petition filed by BMW of North America, Inc. A notice of proposed rulemaking on this subject was published in February 1987.

EFFECTIVE DATE: Effective date of the amendment is October 14, 1987.

FOR FURTHER INFORMATION CONTACT: Jere Medlin, Office of Rulemaking, NHTSA, Washington, DC 20590, (202–366–5276).

SUPPLEMENTARY INFORMATION: Late in 1986, BMW of North America, Inc., filed a petition for rulemaking to amend Motor Vehicle Safety Standard No. 108, to clarify that replaceable bulb headlamp systems may incorporate aiming pad configurations identical to those required on sealed-beam headlamps with circular lenses, saying that it wished to introduce a replaceable bulb headlamp with a circular lens whose diameter is equal to that of a 5¾ inch sealed beam headlamp. However, it is impossible for BMW's new headlamp to meet the aiming pad configurations specified by Figure 4 of Standard No. 108 for replaceable bulb headlamps, though it can meet those specified for sealed beam headlamps with a lens diameter of 5¾ inches. It therefore petitioned NHTSA for an alternative to Figure 4 which would allow replaceable bulb lamp lenses to "be designed so that the lamp may be inspected and aimed by mechanical aimers as specified in SAE J602 October 1980, without the removal of any ornamental trim rings or other parts."

In amending Standard No. 108 to allow use of replaceable bulb headlamps with the attendant styling freedom, NHTSA did not deem it likely that a manufacturer would wish to introduce such a lamp with a size identical to one of the four then permitted. Thus, the petitioner was correct in concluding that the apparent exclusion of replaceable bulb headlamp systems from sealed beam aiming pad location requirements was inadvertent. Therefore, NHTSA granted BMW's petition, and issued a Notice of Proposed Rulemaking, published in the **Federal Register** on February 25, 1987 (52 FR 5563). It proposed an amendment of paragraph S4.1.1.36(a)(2) that would allow replaceable bulb headlamps the option of incorporating aiming pads as specified for 7-inch, or 5¾-inch diameter sealed beam headlamps as specified in SAE Standard J571d, and that would require such headlamps to be designed so that they could be inspected and aimed by mechanical aimers as specified in SAE Standard J602. This is necessary because the universal adaptor used on other types of replaceable bulb headlamps is not designed for use on headlamps of the sizes covered by SAE J571d.

At that time the agency was considering the advisability of requiring headlamps on which the universal adapter cannot be used to bear permanent identification of the type adaptor for which it is designed, and whether such an adapter has been provided with the vehicle, as well as the advisability of placing this information in the operator's manual. NHTSA requested comments on the necessity for the provision of that information.

Seven brief comments were received on the proposal, none of which opposed it. In the proposal the last sentence of S4.1.1.36(a)(2) stated that a headlamp with aiming pads meeting the requirements of SAE J571d for circular headlamps shall be designed so that it may be inspected and aimed by a mechanical aimer as specified in SAE J602c. However, upon review, NHTSA has concluded that this language is unnecessary and has removed it from S4.1.1.36(a)(2) which is otherwise unchanged from the language proposed; the language, in essence, already appears in the first sentence of (a)(2).

The petitioner, BMW, asked an interpretative question. It requested confirmation that aiming dimensions do not have to be marked on the lenses because sealed bean headlamps aimed by a mechanical aimer as specified in SAE J602c do not have to be marked. The agency confirms BMW's understanding. Aiming dimensions do not have to be marked on the lens of a headlamp using existing adapters for headlamps with diameters of 5¾ inches and 7 inches because of the exception in (a)(3) provided for in (a)(2). This exception (Section 5 of SAE J580 AUG79) regulates the design of sealed beam headlamps with those diameters.

In response to NHTSA's request for comments on the advisability of marking adapter information on the lenses of headlamps unable to accommodate the universal adapter, and associated Operator's Manual information, manufacturers generally opposed these ideas. Chrysler Corporation expressed its belief that personnel involved in aiming headlamps are already knowledgeable about appropriate adapters. Because vehicle owners generally do not mechanically aim their headlamps, adapter information in the

Operator's Manual would serve no useful purpose. Perhaps most importantly, adapters are not standardized, and standardization would have to occur before any regulation relating to them could be promulgated. Volkswagen of America felt that the number of adapters is so small and the physical differences between them so obvious that no markings are required. Ford Motor Company also opposed any regulation. General Motors does not anticipate that a significant number of new types of adapters will be forthcoming in the future, as it believes there will be a trend away from the use of aiming pads on the face of the lens towards on-vehicle aiming systems. In view of these comments the agency does not intend to consider these topics as candidates for rulemaking.

NHTSA has considered this rule and has determined that it is not major within the meaning of Executive Order 12291 "Federal Regulation" or significant under Department of Transportation regulatory policies and procedures, and that neither a regulatory impact analysis nor a regulatory evaluation is required. Since the amendment relieves a restriction, the rule will not impose additional requirements or costs but will permit manufacturers great flexibility in the design and use of headlighting systems. The price of new headlamps will not be affected. NHTSA has analyzed this rule for the purpose of the National Environmental Policy Act. The rule will have no effect upon the human environment since it will result in no change in the weight and quantity of materials used in the manufacture of headlamps.

The agency has also considered this rule in relation to the Regulatory Flexibility Act. I certify that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared. Manufacturers of motor vehicles and headlamps, those affected by the proposal, are generally not small businesses within the meaning of the Regulatory Flexibility Act. Finally, small organizations and governmental jurisdictions will not be significantly affected as there will be no impact on the price of new vehicles or headlamps.

Because of the necessity of the petitioner to plan production, importation, and distribution on an orderly basis, it is found that an effective date earlier than 180 days after issuance of the final rule is in the public interest.

The engineer and lawyer primarily responsible for this rule are Jere Medlin and Taylor Vinson, respectively.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, 49 CFR Part 571 is amended as follows:

PART 571—[AMENDED]

1. The authority citation for Part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

2. Paragraph (a)(2) of paragraph S4.1.1.36 of §571.108 is revised to read:

§ 571.108 Standard No. 108; lamps, reflective devises, and associated equipment.

* * * * *

S4.1.1.36

* * * * *

(a) * * *

(2) The exterior face of the lens of each replaceable bulb headlamp shall have three pads which meet the requirements of either Figure 4, *Dimensional Specifications for Location of Aiming Pads on Replaceable Bulb Headlamp Units,* or SAE Standard J571d *Dimensional Specifications for Sealed Beam Headlamp Units,* June 1976, as specified for a headlamp with a diameter of 5¾ inches or 7 inches. Except as provided in subparagraph (a)(3), a whole number which represents the distance in tenths of an inch (i.e., 0.3 inch=3) from the aiming reference plane to the respective aiming pads which are not in contact with that plane, shall be inscribed adjacent to each respective aiming pad on the lens of a headlamp whose pads meet the requirements of Figure 4. The height of these numbers shall not be less than .157 inch (4mm). If there is interference between the plane and the area of the lens between the aiming pads, the whole number will represent the distance to a secondary plane. The secondary plane shall be located parallel to the aiming reference plane and as close as possible to the lens without causing interference.

* * * * *

Issued on September 8, 1987.

Diane K. Steed,

Administrator.

[FR Doc. 87-21037 Filed 9-11-87; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 50239-5115]

Atlantic Tuna Fisheries; Catch Rate Change

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

ACTION: Notice of catch rate change in the General category.

SUMMARY: The catch rate for giant Atlantic bluefin tuna in the General category is changed from one to two fish per day per vessel. The regulations governing this fishery allow this change based on a review of specified criteria. The increase will provide handgear fishermen a better opportunity to harvest the quota.

EFFECTIVE DATE: September 11, 1987.

FOR FURTHER INFORMATION CONTACT: Kathi L. Rodrigues, National Marine Fisheries Service, Northeast Region, Management Division, 2 State Fish Pier, Gloucester, MA 01930-3097, 617-281-3600, ext. 324.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 through 971h) regulating the take of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction appear at 50 CFR Part 285.

Section 285.24(a) provides that the Assistant Administrator for Fisheries, NOAA, on or about September 1, may adjust the daily catch rate limit to a maximum of three giant Atlantic bluefin tuna per day per vessel, based on a review of dealer reports, daily landing trends, availability of the species on the fishing grounds, and any other relevant factors, to provide for maximum use of the quota. The Assistant Administrator has determined, based on the reported catch of giant Atlantic bluefin tuna of only 170 short tons (st) through August 28, and the relatively low average daily catch rate of less than 3 st per day for the period August 14 through August 28, that the quota for the General category will not be harvested under the prevailing catch constraints. Therefore, the catch rate of one giant Atlantic bluefin tuna per day per vessel will be increased on September 11, 1987, to two fish per day per vessel to provide maximum opportunity to use the General category quota of 650 st set forth in § 285.22(a).

This daily catch rate will remain in effect for the remainder of 1987 or until the quota for the General category is reached. Notice of this action has been mailed to all Atlantic bluefin tuna dealers and vessel owners holding a valid vessel permit for this fishery.

Other Matters

This action is taken under the authority of 50 CFR 285.24 and complies with Executive Order 12291.

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

(16 U.S.C. 971 *et seq.*)

Dated: September 8, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

[FR Doc. 87-21063 Filed 9-11-87; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 675

[Docket No. 61225-7052]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Notice of reopening.

SUMMARY: NOAA announces the reopening of the Bering Sea joint venture processing (JVP) directed fishery on pollock under provisions of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area. Only a small portion of the 20,000 mt that were estimated to be necessary for bycatch was actually harvested. Therefore, about 37,000 mt remains in the Bering Sea pollock JVP. This action is necessary to allow JVP operations to fully harvest the allocated amount. It is intended to assume optimum use of these groundfish by allowing the domestic fishery to resume operations.

DATES: Effective September 9, 1987. Comments will be accepted through September 24, 1987.

ADDRESS: Comments should be mailed to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802, or be delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Janet E. Smoker (Resource Management Specialist, NMFS), 907-586-7230.

SUPPLEMENTARY INFORMATION: On June 5, 1987, 75,000 mt of the Bering Sea/Aleutian Islands non-specific reserve was apportioned to Bering Sea pollock JVP, resulting in a JVP of 1,005,013 mt (52 FR 21958, June 10, 1987). The Secretary provided only 55,000 mt of the reserve apportionment for harvest in the directed pollock joint venture fishery. The Regional Director estimated that the 55,000 mt additional tonnage would be taken in the directed JVP pollock fishery by June 6. The Regional Director estimated that the remaining JVP tonnage of groundfish target species other than pollock would require a bycatch amount of 20,000 mt of pollock. That amount was apportioned to the Bering Sea pollock JVP in accordance with 50 CFR 675.20(b)(1)(i) on the condition that it be used only for bycatch in JVP fisheries that continued to conduct directed fisheries on species other than pollock in the Bering Sea subarea after June 6.

The yellowfin sole joint venture fishery reached its JVP quota and was closed on June 29 (52 FR 25232, July 6, 1987), as was the "other flatfish" joint venture fishery in most of the Bering Sea subarea. The actual bycatch of pollock in all joint venture fisheries conducted in the Bering Sea subarea since June 6 was much lower than anticipated, as was the catch in the directed JVP pollock fishery by June 6. The current remainder for the Bering Sea pollock JVP is 37,000 mt.

The remainder of Bering Sea pollock JVP is far greater than the necessary bycatch for joint venture operations in the Bering Sea subarea during the remainder of 1987. No plans have been submitted for any such operations, so that restricting the catch of pollock to bycatch only, is not necessary. Thus, U.S. joint venture vessels may resume directed fishing for pollock in the Bering Sea subarea until otherwise notified by the Regional Director.

Classification

This action is taken under the authority of 50 CFR 675.20(b) and complies with Executive Order 12291.

The Assistant Administrator for Fisheries finds for good cause that providing prior notice and comment is impractical and contrary to the public interest. Immediate effectiveness of this notice is necessary to prevent delaying the taking of available pollock until later in the season when weather patterns can decrease catch rates and endanger fishermen. However, interested persons are invited to submit comments in writing to the address above for 15 days after the effective date of this notice.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Reporting and recordkeeping requirements.

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

Dated: September 9, 1987.

James E. Douglas, Jr.,

Deputy Assistant Administrator For Fisheries, National Marine Fisheries Service.

[FR Doc. 87-21064 Filed 9-9-87; 4:24 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 52, No. 177
Monday, September 14, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 551

Pay Administration Under the Fair Labor Standards Act; Exemptions

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management is proposing to modify the Fair Labor Standards Act (FLSA) regulations used to determine the exemption status of supervisory firefighters (and a limited number of other employees) at the GS–7 through GS–9 levels. An unintended side effect of the change from previous to current regulations was to significantly reduce the total pay of most supervisory firefighters, thus causing recruitment, retention, and pay structure problems. The proposed revision of current regulations prevents the pay reduction for most of these employees by making them nonexempt (covered by FLSA overtime provisions).

DATE: Written comments will be considered if received no later than October 14, 1987.

ADDRESS: Send or deliver written comments to Michael D. Clogston, Assistant Director for Agency Compliance and Evaluation, Office of Personnel Management, Room 5459, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Jack Tapping, (202) 632–4530.

SUPPLEMENTARY INFORMATION: Changes to exemption regulations were last published on March 4, 1986, in the Federal Register, and transmitted to Federal agencies in FPM Bulletin 551–18. The current regulations changed the method for determining the exemption status of the vast majority of supervisory firefighters.

Previously, these firefighters were nonexempt (covered by the FLSA overtime provisions) even though properly classified as "supervisory" under the Supervisory Grade Evaluation Guide *if* they spent less than 80 percent of their worktime on supervisory and closely related work. Most supervisory firefighters qualified for FLSA overtime pay because they spent less than 80 percent of their time in supervisory work.

Under current regulations, the 80-percent criterion was deleted. This resulted in most firefighters properly classified as "supervisory" below the GS–10 level being exempt from FLSA overtime pay. Application of current regulations caused a significant pay reduction for most supervisory firefighters because of their unique work schedule and the unique overtime standard provided for them in the FLSA. Most Federal employees are eligible for overtime for hours worked in excess of 40 hours per week. Typically, a Federal firefighter will work three 24-hour shifts in a week, or 72 hours of work. For the vast majority of firefighters (those working for the Defense Department) the unusually long work schedule is an absolute condition of employment. Nonexempt firefighters are eligible for additional overtime compensation for all hours in excess of 53. Exempt supervisory firefighters are not eligible for additional overtime compensation. Thus the current FLSA exemption regulations have created a situation where there is a counterincentive for employees (e.g., at grade GS–5 or GS–6) to take more responsible, higher-graded positions. We have received numerous inquiries addressing this situation including many from Federal employees and congressional offices, and formal requests from the Department of Defense, representing all military services, that we correct this problem.

We agree that this problem should be corrected and are proposing a change to 5 CFR 551.204(b) to make supervisory Federal firefighters below the GS–10 level subject to the "80-percent" criterion, as well as the primary duty criterion. This change may also affect certain supervisory law enforcement officials, but we believe the impact will be negligible, as their overtime entitlement is determined differently from that of firefighters.

We are planning to have this change made prospectively at the beginning of the first pay period on or after the effective date of the final regulations.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it merely changes the procedure for applying the executive exemption criteria of the Fair Labor Standards Act to certain Federal employees.

List of Subjects in 5 CFR Part 551

Administrative practice and procedure, Fair Labor Standards Act, Government employees, Manpower training programs, Travel, Wages.

U.S. Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM proposes to amend Part 551 as follows:

PART 551—PAY ADMINISTRATION UNDER THE FAIR LABOR STANDARDS ACT

1. The authority citation for Part 551 continues to read as follows:

Authority: Sec. 4(f) of the Fair Labor Standards Act as amended by Pub. L. 93–259 enacted April 8, 1974, 88 Stat. 55; 29 U.S.C. 204f.

2. Paragraph (b) of § 551.204 is revised to read as follows:

§ 551.204 Executive exemption criteria.

* * * * *

(b) In addition to the primary duty criterion that applies to all employees, foreman level supervisors in the Federal Wage System (or the equivalent in other wage systems), employees at the GS–7 through GS–9 level subject to section 207(k) of Title 29, United States Code, and employees classified at the GS–5 or GS–6 level (or the equivalent in other white collar pay systems) must spend 80 percent or more of the worktime in a representative workweek on supervisory and closely related work.

[FR Doc. 87–21025 Filed 9–11–87; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 401

[Amdt. No. 4; Docket No. 4638S]

General Crop Insurance Regulations; Canning and Processing Tomato Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, by adding a new § 401.114 to be known as the Canning and Processing Tomato Endorsement. The intended effect of this rule is to provide the regulations and endorsement containing the provisions of crop insurance protection on canning and processing tomatoes in an endorsement to a master crop insurance policy which contains the standard terms and conditions concerning most crops. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than October 14, 1987, to be sure of consideration.

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

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is established as July 1, 1992.

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

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

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

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

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

FCIC herewith proposes to add to the General Crop Insurance Regulations (7 CFR Part 401), a new section to be known as § 401.114, the Canning and Processing Tomato Endorsement, effective for the 1988 and succeeding crop years, to provide the provisions for insuring tomatoes.

Upon final publication of § 401.114, the provisions for insuring tomatoes contained therein will supersede those provisions contained in 7 CFR Part 438, the Canning and Processing Tomato Crop Insurance Regulations, effective with the beginning of the 1988 crop year.

Minor editorial changes have been made to improve compatibility with the new general crop insurance policy. These changes do not affect meaning or intent of the provisions. In adding this new Canning and Processing Tomato Endorsement to 7 CFR Part 401 as outlined below, FCIC is proposing other changes in the provisions for insuring tomatoes as follows:

1. *Section 1*—Modify the provision that requires insured tomatoes to be under contract with a canner to require that the contract be in writing and made available to us if the insured is going to claim an indemnity. This change is made because of difficulties involving claimed oral agreements.

2. *Section 3*—Include provisions for stage guarantees in the endorsement rather than in the actuarial documents. Stage guarantee levels have been standardized nationwide and the first stage production guarantee has been increased to 50% of the final stage guarantee.

Change the method used to determine crop stage. All stage intervals will now be determined by plant growth stage rather than specific calendar dates. This change is made so that growers planting at different times will have similar time periods and incurred costs before reaching the second stage.

4. *Section 5*—Add the date the canner or processor no longer accepts production as an event that ends the insurance period. This change is made due to previous loss adjustment problems in situations when the buyer was no longer accepting production.

5. *Section 6*—Add unit division guidelines and add a clause to specify that division of units may result in the insured paying required additional premium for guideline unit division by section, ASCS Farm Serial Number, or practice.

FCIC is soliciting public comment on this proposed rule for 30 days following publication in the **Federal Register.** Written comments received pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 401

General crop insurance regulations, Canning and processing tomato endorsement.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to amend the General Crop Insurance Regulations (7 CFR Part 401) by adding a new § 401.114 in Chapter IV of Title 7 of the Code of Federal Regulations to be known as the Canning and Processing Tomato Endorsement (§ 401.114), effective for the 1988 and succeeding crop years, in the following instances:

PART 401—[AMENDED]

1. The authority citation for 7 CFR Part 401 continues to read as follows:

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

2. 7 CFR Part 401 is amended to add a new section to be known as 401.114, Canning and Processing Tomato Endorsement, effective for the 1988 and

succeeding crop years, to read as follows:

§ 401.114 Canning and processing tomato endorsement.

The provisions of the Canning and Processing Tomato Endorsement for the 1988 and subsequent crop years are as follows:

Federal Crop Insurance Corporation

Canning and Processing Tomato Endorsement

1. Insured Crop

a. The crop insured will be tomatoes which are planted for harvest as canning or processing tomatoes.

b. In addition to the tomatoes not insurable in section 2 of the general crop insurance policy, we do not insure any tomatoes:

(1) Which are not grown under a written contract with a canner or processor or excluded from the canner or processor contract for, or during, the crop year. (The contract must be dated, executed and effective before you report your acreage. It must be made available to us if you are going to claim an indemnity on any unit, or upon our request.); or

(2) Except in California, that are grown on acreage where tomatoes have been grown in either of the two previous crop years.

c. A late planting option will be available on tomatoes.

2. Causes of Loss

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Insects;
(4) Plant disease;
(5) Wildlife;
(6) Earthquake;
(7) Volcanic eruption; or
(8) Unless those causes are excepted, excluded, or limited by the actuarial table or section 9 of the general crop insurance policy. If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting.

b. In addition to the causes of loss not insured against in section 1 of the general crop insurance policy, we will not insure any loss of production due to failure to market the tomatoes unless such failure is due to actual physical damage from a cause specified in subsection 2.a.

3. Production Guarantees

a. The production guarantees per acre are progressive by stages and increase, at specified intervals, to the final stage production guarantee. The stages and production guarantees are:

(1) First stage is from planting until first fruit set, the first stage production guarantee is 50% of the final stage production guarantee.

(2) Second stage is from first fruit set until harvest, the second stage production guarantee is 80% of the final stage production guarantee.

(3) Third stage (final stage) is harvested acreage, the third stage production guarantee is the final stage guarantee.

b. Any acreage of tomatoes damaged to the extent that growers in the area would not further care for the tomatoes, will be deemed to have been destroyed even though the tomatoes continue to be cared for. The production for such acreage will be the guarantee for the stage in which such damage occurs

4. Annual Premium

a. The annual premium amount is computed by multiplying the final stage production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

b. If you are eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1983 crop year under the terms of the experience table contained in the canning and processing tomato policy for the 1984 crop year, you will continue to receive the benefit of the reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1989 crop year;

(2) The premium reduction will not increase because of favorable experience;

(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1984 crop year;

(4) Once the loss ratio exceeds .80, no further premium reduction will apply; and

(5) Participation must be continuous.

5. Insurance Period

The insurance period ends at the earlier of one of the events described in section 7 of the general crop insurance policy or the date the canner or processor no longer accepts production under the contract which covers the insured acreage planted for the contract year. The calendar date for the end of the insurance period is October 10 of the calendar year in which the tomatoes are normally harvested.

6. Unit Division

Tomato acreage that would otherwise be one unit, as defined in section 17 of the general crop insurance policy, may be divided into more than one unit if you agree to pay additional premium if required by the actuarial table and if for each proposed unit you maintain written, verifiable records of planted acreage and harvested production for at least the previous crop year; and either

a. Acreage planted to insured tomatoes is located in separate, legally identifiable sections or, in the absence of section descriptions, the land is identified by separate ASCS Farm Serial Numbers, provided:

(1) The boundaries of the section or ASCS Farm Serial Number are clearly identified and the insured acreage can be easily determined; and

(2) The tomatoes are planted in such a manner that the planting pattern does not continue into the adjacent section or ASCS Farm Serial Number; or

b. The acreage planted to the insured tomatoes is located in a single section or ASCS Farm Serial Number and consists of acreage on which both an irrigated and nonirrigated practice are carried out, provided:

(1) Tomatoes planted on irrigated acreage do not continue into nonirrigated acreage in the same rows or planting pattern; and

(2) Planting, fertilizing and harvesting are carried out in accordance with recognized good dryland and irrigated farming practices for the area.

If you have a loss on any unit, production records for all harvested units must be provided. Production that is commingled between optional units will cause those units to be combined.

7. Notice of Damage or Loss

a. In addition to the notices required in section 8 of the general crop insurance policy, if you are going to claim an indemnity on any unit, you must give us notice within 72 hours:

(1) Of when harvest would normally start if any acreage on the unit is not to be harvested;

(2) Of discontinuance of harvest on the unit; or

(3) If you are unable to deliver production to the canner or processor.

b. The tomato vines on any hard-harvested acreage must not be destroyed until inspected by us if an indemnity is to be claimed on the unit.

c. For the purposes of section 8 of the general crop insurance policy the representative sample of the unharvested crop must be at least 10 feet wide and the entire length of the field.

8. Claim for Indemnity

a. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of tomatoes to be counted (see subsection 8.b.);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

b. The total production (tons) to be counted for a unit will include:

(1) All harvested tomato production marketed and any tomato production which does not meet the quality requirements of the canner or processor contract due to not being timely marketed;

(2) All appraised production which will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good tomato farming practices;

(b) Not less than the guarantee for any acreage which is abandoned, put to another use without our prior written consent, or damaged solely by an uninsured cause;

(c) For acreage which does not qualify for the final period guarantee, any amount of appraised and harvested production in excess of the difference between the final period guarantee and the guarantee applicable to such acreage;

(d) Production lost due to uninsured causes; and

(e) Appraised production on insured acreage for which we have given written consent to be put to another use unless such acreage is:

(i) Not put to another use before harvest of tomatoes becomes general in the county and is reappraised by us;

(ii) Further damaged by an insured cause and is reappraised by us; or

(iii) Harvested.

9. Cancellation and Termination Dates

The cancellation and termination dates are February 15 in California and April 15 in all other states.

10. Contract Changes

The date by which contract changes will be available in your service is November 30 preceding the cancellation date for counties with a February 15 cancellation date and December 31 preceding the cancellation date for all other counties.

11. Meaning of Terms

a. "First fruit set" means the reproductive stage of the plant when 30% of the plants have produced a fruit that has reached a minimum of one inch in diameter.

b. "Harvest" means severance of tomatoes from the vines for the purpose of delivery to a canner or processor.

c. "Section" means a unit of measure under the rectangular survey system describing a tract of land generally one mile square, usually containing approximately 640 acres.

Done in Washington, DC, on August 20, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-21088 Filed 9-11-87; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 401

[Amdt. No. 9; No. 4693S]

General Crop Insurance Regulations; Cotton Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, by adding a new section 7 CFR 401.119, to be known as the Cotton Endorsement. The intended effect of this rule is to provide the regulations and endorsement containing the provisions of crop insurance protection on cotton in an endorsement to the general crop insurance policy which contains the standard terms and conditions common to most crops. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than October 14, 1987, to be sure of consideration.

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

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512.1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is established as August 1, 1992.

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

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

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

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

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

FCIC herewith proposes to add to the General Crop Insurance Regulations (7 CFR Part 401), a new section to be known as 7 CFR 401.119, the Cotton Endorsement, effective for the 1988 and succeeding crop years, to provide the provisions for insuring cotton.

Upon publication of 7 CFR 401.119 as a final rule, the provisions for insuring cotton contained therein will supersede those provisions contained in 7 CFR Part 421, the Cotton Crop Insurance Regulations, effective with the beginning of the 1988 crop year. The present policy contained in 7 CFR Part 421 will be terminated at the end of the 1987 crop year and later removed and reserved. FCIC will propose to amend the title of 7 CFR Part 421 by separate document so that the provisions therein are effective only through the 1987 crop year.

Minor editorial changes have been made to improve compatibility with the new general crop insurance policy These changes do not affect meaning or intent of the provisions. In adding the new Cotton Endorsement to 7 CFR Part 401, FCIC is proposing changes in the provisions for insuring cotton as follows:

1. *Section 1*—Add a provision indicating that cotton destroyed to comply with other U.S. Department of Agriculture programs will not be insured. This provision was added to prevent insurance from attaching to a crop that is intended for destruction or destroyed to comply with other USDA programs.

2. *Section 8*—Add a provision that provides for harvested—unharvested guarantees replacing previous stage guarantees. This change was made due to the administrative problems encountered in determining which stage damage occurs in and whether farmers in the area generally would further care for the crop.

3. *Section 6*—Include unit division provisions to modify the unit definition in the general crop insurance policy to exclude unit division by share.

FCIC is soliciting public comment on this proposed rule for 30 days following publication in the **Federal Register.** Written comments received pursuant to this proposed rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 401

General crop insurance regulations, Cotton endorsement.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*),

the Federal Crop Insurance Corporation proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, as follows:

PART 401—[AMENDED]

1. The authority citation for 7 CFR Part 401 continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75.430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR Part 401 is amended to add a new section to be known as 7 CFR 401.119 Cotton Endorsement, effective for the 1988 and succeeding crop years, to read as follows:

§ 401.119 Cotton endorsement.

The provisions of the Cotton Crop Insurance Endorsement for the 1988 and subsequent crop years are as follows:

Federal Crop Insurance Corporation

Cotton Endorsement

1. Insured Crop and Acreage

a. The crop insured will be American Upland lint cotton.

b. The acreage insured of skip-row cotton will be the acreage occupied by the rows of cotton after eliminating the skipped-row portions, unless other methods of determining acreage are required by the actuarial table.

c. In addition to the cotton not insurable in section 2 of the general crop insurance policy, we do not insure any cotton:

(1) Which is not irrigated and is grown:

(a) Where a hay crop was harvested; or

(b) Where a small grain crop reached the heading stage in the same calendar year;

(2) Planted in excess of the acreage limitations applicable to the farm by any program administered by the United States Department of Agriculture; or

(3) Destroyed, designated to be destroyed, or put to another use in order to comply with other United States Department of Agriculture programs.

d. A late planting agreement will be available for cotton.

2. Causes of Loss

The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

a. Adverse weather conditions;

b. Fire;

c. Insects;

d. Plant disease;

e. Wildlife;

f. Earthquake;

g. Volcanic eruption; or

h. If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9 of the general crop insurance policy.

3. Annual Premium

The annual premium amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

4. Insurance Period

a. In lieu of subsection 7.b. of the general crop insurance policy (harvest of the unit), insurance will end upon removal of the cotton from the field.

b. The calendar dates for the end of the insurance period are as follows:

(1) Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson counties, Texas, and all Texas counties lying South thereof—September 30;

(2) Arizona, California, New Mexico, Oklahoma, and all other Texas counties—January 31;

(3) All other states—December 31.

5. Unit Division

a. In lieu of subsections 17.q.(1) and 17.q.(2) of the general crop insurance policy, a unit will be all insurable acreage of cotton in the county in which you have an insured share and which is identified by a single ASCS Farm Serial Number at the time insurance first attaches for the crop year.

b. We may reject or modify any ASCS reconstitution for the purpose of unit definition if the reconstitution was in whole or in part to defeat the purpose of the Federal Crop Insurance Program or to gain disproportionate advantage under this policy.

c. If you have a loss on any unit, production records for all harvested units must be provided. Production that is commingled between units will cause those units to be combined.

6. Notice of Damage or Loss

In addition to the provisions in section 8 of the general crop insurance policy;

a. You may not destroy any cotton on which an indemnity will be claimed until we give consent.

b. For purposes of section 8 of the general crop insurance policy the representative sample of the unharvested crop must be at least 10 feet wide and the entire length of the field.

7. Claim for Indemnity

a. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of cotton to be counted (see subsection 8.b.);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share

b. The total production to be counted for a unit will include:

(1) All harvested production; and

(2) All appraised production which will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good cotton farming practices;

(b) Not less than the applicable guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Not less than 25 percent of the production guarantee per acre for all unharvested acreage

(d) Appraised production on insured acreage for which we have given written consent to be put to another use unless such acreage is:

(i) Not put to another use before harvest of cotton becomes general in the county and is reappraised by us;

(ii) Further damaged by an insured cause and is reappraised by us; or

(iii) Harvested.

(e) Appraised production of not less than the second stage guarantee on acreage where the cotton stalks have been destroyed without our written consent.

c. When mature cotton (harvested or unharvested) has been damaged solely by insured causes, the production to count will be reduced if, on the date the final notice of loss is given by the insured, the price quotation for cotton of like quality (price quotation "A") at the applicable spot market is less than 75 percent of price quotation "B". Price quotation "B" will be that day's spot market price quotation at the same market for cotton of the grade, staple length, and micronaire reading shown by the actuarial table for this purpose. The pounds of production to be counted will be determined by multiplying the number of pounds (harvested and appraised) of mature cotton by price quotation "A" and dividing the result by 75 percent of price quotation "B"

8. Cancellation and Termination Dates

The cancellation and termination dates are:

State and county	Cancellation and termination dates
Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties lying south thereof.	February 15.
Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; South Carolina; and El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Upton, Reagan, Sterling, Coke, Tom Green, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, Cooke Counties, Texas, and all Texas counties lying south and east thereof to and including Terrell, Crockett, Sutton, Kimble, Gillespie, Blanco, Comal, Guadalupe, Gonzales, De Witt, Lavaca, Colorado, Wharton, and Matagorda Counties, Texas.	March 31.
All other Texas counties and all other states.	April 15.

9. Contract Changes

The date by which contract changes will be available in your service office is December 31 preceding the cancellation date for counties with an April 15 cancellation date and November 30 preceding the cancellation date for all other Counties.

10. Meaning of Terms

a. "Cotton" means only American Upland Cotton.

b. "County" means the land defined in the general crop insurance policy and any land identified by an ASCS Farm Serial Number for the county but physically located in another county.

c. "Harvest" means the removal of the seed cotton on each acre from the open cotton boll or the severance of the open cotton boll from

the stalk by either manual or mechanical means on acreage from which at least 25 percent of the per acre production guarantee is removed.

d. "Mature cotton" means cotton which can be harvested either manually or mechanically and will include both unharvested and harvested cotton.

e. "Skip-row" means planting patterns consisting of alternating rows of cotton and fallow rows (or rows of another crop) as defined by ASCS.

f. "Spot market" means a market so designated by the Secretary of Agriculture by Regulation (7 CFR Part 27) pursuant to 26 U.S.C. 4862.

Done in Washington, DC, on August 20, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-21080 Filed 9-11-87; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 401

[Amdt. No. 6, Doc. No. 4622S]

General Crop Insurance Regulations; Flaxseed Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, by adding a new section, 7 CFR 401.116 to be known as the Flaxseed Endorsement. The intended effect of this rule is to provide the regulations and endorsement containing the provisions of crop insurance protection on flaxseed in an endorsement to the General Crop Insurance policy which contains the standard terms and conditions common to most crops. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than October 14, 1987, to be sure of consideration.

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

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is established as April 1, 1992.

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

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

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

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

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

FCIC herewith proposes to add to the General Crop Insurance Regulations (7 CFR Part 401), a new section to be known as 7 CFR 401.116, the Flaxseed Endorsement, effective for the 1988 and succeeding crop years, to provide the provisions for insuring flaxseed.

Upon publication of 7 CFR 401.116 as a final rule, the provisions for insuring flaxseed contained therein will supersede those provisions contained in 7 CFR Part 423, the Flaxseed crop Insurance Regulations, effective with the beginning of the 1988 crop year. The present policy contained in 7 CFR Part 423 will be terminated at the end of the 1987 crop year and later removed and reserved. FCIC will propose to amend the title of 7 CFR Part 423 by separate document so that the provisions therein are effective only through the 1987 crop year.

Minor editorial changes have been made to improve compatibility with the new general crop insurance policy. These changes do not affect meaning or intent of the provisions. In adding the new Flaxseed Endorsement to 7 CFR Part 401, FCIC is proposing other changes in the provisions for insuring flaxseed as follows:

1. *Section 5*—Add unit division guidelines and add a clause to specify that division of units may result in the insured paying additional premium for guideline unit division in accordance with actuarial studies which show an increased risk when units are divided. Add language to specify that nonirrigated corners of a center pivot irrigation system are part of the irrigated unit. The production from the total unit, both irrigated and nonirrigated, is combined to determine your unit for the purpose of determining the guarantee for the unit.

2. *Section 10*—Add definitions for "Harvest" and "Section."

FCIC is soliciting public comment on this proposed rule for 30 days following publication in the **Federal Register.**

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

List of Subjects in 7 CFR Part 401

General crop insurance regulations; Flaxseed endorsement.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, as follows:

PART 401—[AMENDED]

1. The authority citation for 7 CFR Part 401 continues to read as follows:

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

2. 7 CFR Part 401 is amended to add a new section to be known as 7 CFR 401.116 Flaxseed Endorsement, effective for the 1988 and Succeeding Crop Years, to read as follows:

§ 401.116 Flaxseed endorsement.

The provisions of the Flaxseed Crop Insurance Endorsement for the 1988 and subsequent crop year are as follows:

Federal Crop Insurance Corporation

Flaxseed Endorsement

1. Insured Crop

a. The crop insured will be flaxseed planted for harvest as seed.

b. In addition to the flaxseed not insurable in section 2 of the general crop insurance policy, we do not insure any flaxseed if the seed has not been mechanically incorporated into the soil in rows unless another method of planting is specifically allowed by the actuarial table.

2. Causes of Loss

The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

a. Adverse weather conditions;
b. Fire;
c. Insects;
d. Plant disease;
e. Wildlife;
f. Earthquake;
g. Volcanic eruption; or
h. If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9 of the general crop insurance policy.

3. Annual Premium

a. The annual premium amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

b. If you are eligible for a premium reduction in excess of 5 percent based on your insurance experience through the 1983 crop year under the terms of the experience table contained in the flax policy in effect for the 1984 crop year, you will continue to receive the benefit of the reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1989 crop year;

(2) The premium reduction amount will not increase because of favorable experience;

(3) The premium reduction amount will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1985 crop year;

(4) Once the loss ratio exceeds .80, no further premium reduction will apply; and

(5) Participation must be continuous.

4. Insurance Period

The calendar date for the end of the insurance period is October 31 following planting.

5. Unit Division

Flaxseed acreage that would otherwise be one unit, as defined in section 17 of the general crop insurance policy, may be divided into more than one unit if you agree to pay additional premium as provided by the actuarial table and if for each proposed unit you maintain written, verifiable records of planted acreage and harvested production for at least the previous crop year. Production reports by unit based on those records should be filed as early as possible but must be filed by no later than the date required by subsection 4.d. of the general crop insurance policy and either; and either:

a. Acreage planted to the insured flaxseed is located in separate, legally identifiable sections or, in the absence of section descriptions the land is identified by separate ASCS Farm Serial Numbers, provided:

(1) The boundaries of the sections or ASCS Farm Serial Numbers are clearly identified, and the insured acreage can be easily determined; and

(2) The flaxseed is planted in such a manner that the planting pattern does not continue into an adjacent section or ASCS Farm Serial Number; or

b. The acreage planted to the insured flaxseed is located in a single section or ASCS Farm Serial Number and consists of acreage on which both irrigated and nonirrigated practices are carried out, provided:

(1) Flaxseed planted on the irrigated acreage does not continue into nonirrigated acreage in the same rows or planting pattern (Nonirrigated corners of a center pivot irrigation system planted to insurable flaxseed are part of the irrigated unit. The production from the total unit, both irrigated and nonirrigated, is combined to determine your unit for the purpose of determining the guarantee for the unit.); and

(2) Planting, fertilizing and harvesting are carried out in accordance with recognized good irrigated and nonirrigated farming practices for the area.

If you have a loss on any unit, production records for all harvested units must be provided. Production that is commingled between optional units will cause those units to be combined.

6. Notice of Damage or Loss

For purposes of Section 8 of the general crop insurance policy the representative sample of the unharvested crop must be at least 10 feet wide and the entire length of the field.

7. Claim for Indemnity

a. An indemnity will be determined for each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of flaxseed to be counted (see subsection 7.b.);

(3) Multiplying the remainder by your price election; and

(4) Multiplying this result by your share.

b. The total production (bushels) to be counted for a unit will include:

(1) All harvested production and may be adusted for moisture or quality as follows:

(a) Mature flaxseed production which, due to insurable causes, has a test weight or less than 47 pounds per bushel or, as determined by a grain grader licensed by the Federal Grain Inspection Service or licensed under the United States Warehouse Act, contains more than 15 percent damaged flaxseed, will be adjusted by:

(i) Dividing the value per bushel of the insured flaxseed by the price per bushel of U.S. No. 2 flaxseed; and

(ii) Multiplying the result by the number of bushels of insured flaxseed.

(b) The applicable price for No. 2 flaxseed will be the local market price on the earlier of the day the loss is adjusted or the day the insured flaxseed is sold.

(2) All appraised production will include:

(a) Unharvested production on harvested acreage and potential production lost due to an uninsured causes and failure to follow recognized good flaxseed farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use (other than harvest) without our prior written consent or damaged solely by an uninsured cause;

(c) Appraised production on unharvested acreage; and

(d) Appraised production on insured acreage for which we have given written consent to be put to another use unless such acreage is:

(i) Not put to another use before harvest of flax becomes general in the county and reappraised by us;

(ii) Further damaged by an insured cause and reappraised by us; or

(iii) Harvested.

8. Cancellation and Termination Date

The cancellation and termination date for all states is April 15.

9. Contract Changes

Contract changes will be available at your service office by December 31 prior to the cancellation date.

10. Meaning of Terms

a. "Harvest" of flaxseed on the unit means combining, or removal from the field.

b. "Section" is a unit of measure under the rectangular survey system describing a tract of land generally one mile square, usually consisting of approximately 640 acres.

Done in Washington, DC on August 20, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-21082 Filed 9-11-87; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 401

[Amt. No. 3; Doc. No. 4344S]

General Crop Insurance Regulations; Grain Sorghum Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, by adding a new section, 7 CFR 401.113 to be known

as the Grain Sorghum Endorsement. The intended effect of this rule is to provide the regulations and endorsement containing the provisions of crop insurance protection on grain sorghum in an endorsement of the General Crop Insurance policy which contains the standard terms and conditions common to most crops. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than October 14, 1987, to be sure of consideration.

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

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is established as July 1, 1992.

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

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

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

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

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

FCIC herewith proposes to add to the General Crop Insurance Regulations (7 CFR Part 401), a new section to be known as 7 CFR 401.113, the Grain Sorghum Endorsement, effective for the 1988 and succeeding crop years, to provide the provisions for insuring grain sorghum.

Upon publication of 7 CFR 401.113 as a final rule, the provisions for insuring grain sorghum contained therein will supersede those provisions for insuring grain sorghum contained in 7 CFR Part 420, the Grain Sorghum Crop Insurance Regulations, effective with the beginning of the 1988 crop year. The present policy contained in 7 CFR Part 420 will be terminated at the end of the 1987 crop year and later removed and reserved. FCIC will propose to amend the title of 7 CFR Part 420 by separate document so that the provisions therein are effective only through the 1987 crop year.

Minor editorial changes have been made to improve compatibility with the new general crop insurance policy. These changes do not affect meaning or intent of the provisions. In adding the new Grain Sorghum Endorsement to 7 CFR Part 401 as outlined below, FCIC is proposing changes in the provisions for insuring corn. FCIC itemizes such changes as follows:

1. *Section* 1—Add a provision indicating that grain sorghum destroyed to comply with other U.S. Department of Agriculture progrms will not be insured. This provision was added to prevent insurance from attaching to the crop intended for eventual destruction to comply with other U.S. Department of Agriculture programs.

2. The General Policy provides that insurance will begin on each unit or portion of a unit. This change avoids instances when delayed planting of part of a unit until after the final planting date prevents insurance from attaching on timely planted acreage.

3. *Section* 5—Add unit division guidelines and add a clause to specify that division of units may result in the insured paying additional premium for guideline unit division in accordance with actuarial studies which show an increased risk when units are divided. Add language to specify that nonirrigated corners of a center pivot irrigation system are part of the irrigated unit. The production from the total unit, both irrigated and nonirrigated, is combined to determine your unit for the purpose of determining the guarantee for the unit.

4. *Section* 10—Add definitions for "Harvest", and "Section."

FCIC is soliciting public comments on this proposed rule for 30 days following publication in the Federal Register. Written comments received pursuant to this proposed rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 401

General crop insurance regulations, Grain sorghum endorsement.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, as follows:

PART 401—[AMENDED]

1. The authority citation for 7 CFR Part 401 continues to read as follows:

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

2. 7 CFR Part 401 is amended to add a new section to be known as 7 CFR 401.113 Grain Sorghum Endorsement, effective for the 1988 and Succeeding Crop Years, to read as follows:

§ 401.113 Grain sorghum endorsement.

The provisions of the Grain Sorghum Crop Insurance Endorsement for the 1988 and subsequent crop year are as follows:

Federal Crop Insurance Corporation

Grain Sorghum Endorsement

1. Insured Crop

a. The crop insured will be combine type hybrid grain sorghum planted for harvest as grain.

b. In addition to the grain sorghum not insurable in section 2 of the general crop insurance policy, we do not insure any grain sorghum, which was destroyed or put to another use for the purpose of conforming with any other program administered by the United States Department of Agriculture.

c. A late planting agreement will be available for all grain sorghum.

2. Causes of Loss

The insurance provided is against unavoidable loss of production resulting from

the following causes occurring within the insurance period:

a. Adverse weather conditions;
b. Fire;
c. Insects;
d. Plant disease;
e. Wildlife;
f. Earthquake;
g. Volcanic eruption; or
h. If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9 of the general crop insurance policy.

3. Annual Premium

a. The annual premium amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

b. If you are eligible for a premium reduction in excess of 5 percent based on your insurance experience through the 1983 crop year under the terms of the experience table contained in the grain sorghum policy in effect for the 1984 crop year, you will continue to receive the benefit of the reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1989 crop year;

(2) The premium reduction amount will not increase because of favorable experience;

(3) The premium reduction amount will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1985 crop year;

(4) Once the loss ratio exceeds .80, no further premium reduction will apply; and

(5) Participation must be continuous.

4. Insurance Period

The calendar date for the end of the insurance period is:

(a) Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties south thereof, September 30.

(b) All other Texas counties and all other States, December 10.

5. Unit Division

Grain sorghum acreage that would otherwise be one unit, as defined in section 17 of the general crop insurance policy, may be divided into more than one unit if you agree to pay additional premium as provided for by the actuarial table and if for each proposed unit you maintain written, verifiable records of planted acreage and harvested production for at least the previous crop year; and either

a. Acreage planted to the insured grain sorghum crop is located in separate, legally identifiable sections (except in Florida) or, in the absence of section descriptions (and in Florida) the land is identified by separate ASCS Farm Serial Numbers, provided:

(1) The boundaries of the section or ASCS Farm Serial Number are clearly identified, and the insured acreage can be easily determined; and

(2) The grain sorghum is planted in such a manner that the planting pattern does not continue into an adjacent section or ASCS Farm Serial Number; or

b. The acreage planted to the insured grain sorghum is located in a single section or ASCS Farm Serial Number and consists of acreage on which both irrigated and non-irrigated practices are carried out, provided:

(1) Grain sorghum planted on the irrigated acreage does not continue into non-irrigated acreage in the same rows or planting pattern (Non-irrigated corners of a center pivot irrigation system planted to insurable grain sorghum are part of the irrigated unit. The production from the total unit, both irrigated and nonirrigated, is combined to determine your unit for the purpose of determining the guarantee for the unit.); and

(2) Planting, fertilizing and harvesting are carried out in accordance with recognized good irrigated and non-irrigated farming practices for the area.

If you have a loss on any unit, production records for all harvested units must be provided. Production that is commingled between optional units will cause those units to be combined.

6. Notice of Damage or Loss

a. In addition to the notices required in section 8 of the general crop insurance policy and in case of damage or probable loss, you must give us written notice if you want our consent to harvest the damaged crop. We will appraise the potential bushels of grain production. If we are unable to do so before harvest, you may harvest the crop if a representative sample is left unharvested.

b. For the purpose of section 8 of the general crop insurance policy and subsection 6.a. above, a representative sample of the unharvested crop must be at least 10 feet wide and the entire length of the field(s).

7. Claim for Idemnity

a. The indemnity will be determined on each unit by:

(1) multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of grain sorghum to be counted (see subsection 7.d.);

(3) Multiplying the remainder by your price election; and

(4) Multiplying this result by your share.

b. The total production (bushels) to be counted for a unit will include:

(1) All harvested and appraised production and may be adjusted for moisture and quality as follows:

(a) Mature grain sorghum production which is not eligible for quality adjustment will be reduced .12 percent for each .1 percentage point of moisture in excess of 14.0 percent; or

(b) Mature grain sorghum production which, due to insurable causes has a test weight of less than 51 pounds per bushel or contains more than 15.0 percent kernel damage, as determined by a grain grader licensed by the Federal Grain Inspection Service or licensed under the United States Warehouse Act, will be adjusted by:

(i) Dividing the value per bushel of the insured grain sorghum by the price per bushel of U.S. No. 2 grain sorghum; and

(ii) Multiplying the result by the number of bushels of insured grain sorghum.

The applicable price for No. 2 grain sorghum will be the local market price on the earlier of the day the loss is adjusted or the day the insured grain sorghum is sold; and

(2) All appraised production which will include:

(a) Unharvested production on harvested acreage and potential production lost due to an uninsured causes and failure to follow recognized good grain sorghum farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Appraised production on unharvested acreage;

(d) Appraised production on insured acreage for which we have given written consent to be put another use unless such acreage is:

(i) Not put to another use before harvest of grain sorghum becomes general in the county and reappraised by us;

(ii) Further damaged by an insured cause and reappraised by us; or

(iii) Harvested.

c. A replanting payment is available under this endorsement if we determine it is practical to replant on a unit and our appraisal does not exceed 90 percent of the guarantee on the unit. The replanting payment per acre will be your actual cost per acre for replanting, except that the payment will not exceed 7 bushels multiplied by the price election, multiplied by your share. When the crop is replanted by a practice that was uninsurable as an original planting, the guarantee is reduced by the amount of the replant payment.

8. Cancellation and Termination Dates

State and County	Cancellation and termination dates
Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties south thereof.	February 15.
Alabama; Arizona; Arkansas, California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; South Carolina; and El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Uptown, Reagan, Sterling, Coke, Tom Green, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, Cooke Counties, Texas, and all Texas counties south and east thereof to and including Terrell, Crockett, Sutton, Kimble, Gillespie, Blanco, Comal, Guadalupe, Gonzales, De Witt, Lavaca, Colorado, Wharton, and Matagorda Counties, Texas.	March 31.
All other Texas counties and all other States.	April 15.

9. Contract Changes

Contract changes will be available at your service office by December 31 prior to the cancellation date for counties with an April 15 cancellation date and by November 30 prior to the cancellation date for all other counties.

10. Meaning of Terms

a. "Harvest" of grain sorghum on the unit means combining, or removal from the field.

b. "Section" is a unit of measure under the rectangular survey system describing a tract of land generally one mile square, usually consisting of approximately 640 acres.

Done in Washington, DC, on August 20, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-21084 Filed 9-11-87; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 401

[Amdt. No. 10; Doc. No. 4724S]

General Crop Insurance Regulations; Rice Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, by adding a new section, 7 CFR 401.120, to be known as the Rice Endorsement. The intended effect of this rule is to provide the regulations and endorsement containing the provisions of crop insurance protection on rice in an endorsement to the general crop insurance policy which contains the standard terms and conditions common to most crops. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than October 14, 1987, to be sure of consideration.

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

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is established as August 1, 1992.

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

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

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

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

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

FCIC herewith proposes to add to the General Crop Insurance Regulations (7 CFR Part 401), a new section to be known as 7 CFR 401.120, the Rice Endorsement, effective for the 1988 and succeeding crop years, to provide the provisions for insuring rice.

Upon publication of 7 CFR 401.120 as a final rule, the provisions for insuring rice contained therein will supersede those provisions contained in 7 CFR Part 424, the Rice Corp Insurance Regulations, effective with the beginning of the 1988 crop year. The present policy contained in 7 CFR Part 424 will be terminated at the end of the 1987 crop year and will later be removed and reserved. FCIC will propose to amend the title of 7 CFR Part 424 by separate document so that the provisions therein are effective only through the 1987 crop year.

Minor editorial changes have been made to improve compatibility with the new general crop insurance policy. These changes do not affect meaning or intent of the provisions. In adding the new Rice Endorcement to 7 CFR Part 401, FCIC is proposing other changes in the provisions for insuring rice as follows:

1. *Section 1*—Add a provision indicating that rice destroyed to comply with other U.S. Department of Agriculture programs will not be insured. This provision was added to prevent insurance from attaching to a crop that is destroyed to comply with other programs.

2. *Section 5*—Add unit division provisions in the endorsement. The language used modifies the unit definition in the general crop insurance policy to exclude unit division by share.

FCIC is soliciting public comment on this proposed rule for 30 days following publication in the **Federal Register**. Written comments received pursuant to this proposed rule will be available for public inspection in the Office of the Manager, Federal Corp Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 401

General crop insurance regulations, Rice endorsement.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, as follows:

Part 401—[Amended]

1. The authority citation for 7 CFR Part 401 continues to read as follows:

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

2. 7 CFR Part 401 is amended to add a new section to be known as 7 CFR 401.120 Rice Endorsement, effective for the 1988 and Succeeding Crop Years, to read as follows:

§ 401.120 Rice endorsement.

The provisions of the Rice Crop Insurance Endorsement for the 1988 and subsequent crop years are as follows:

Federal Crop Insurance Corporation

Rice Endorsement

1. Insured Crop

a. The crop insured will be rice which is planted for harvest as grain.

b. In addition to the rice not insurable in section 2 of the general crop insurance policy, we do not insure any rice;

(1) Destroyed or put to another use in order to comply with other United States Department of Agriculture programs; or;

(2) Which is not irrigated.

c. A late planting agreement will be available.

2. Causes of Loss

a. The insurance provided is against unavoidable loss of production resulting from

the following causes occurring within the insurance period:

(1) Adverse weather conditions (excluding drought);

(2) Fire;

(3) Insects;

(4) Plant disease;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) Failure of the irrigation water supply due to an unavoidable cause occurring after the beginnning of planting; unless those causes are excepted, excluded, or limited by the actuarial table or section 9 of the general crop insurance policy.

b. In addition to the causes of loss not insured against in section 1 of the general crop insurance policy, we will not insure against any loss of production due to application of saline water.

3. Annual Premium

The annual premium amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

4. Insurance Period

The calendar date for the end of the insurance period is October 31 of the calendar year on which the rice is normally harvested.

5. Unit Division

a. In lieu of subsections 17.q.(1) and 17.q.(2) of the general crop insurance policy, a unit will be all insurable acreage of rice in the county in which you have an insured share and which is identified by a single ASCS Farm Serial Number at the time insurance first attaches for the crop year.

b. We may reject or modify any ASCS reconstitution for the purpose of unit definition if the reconstitution was in whole or in part to defeat the purpose of the Federal Crop Insurance Program or to gain disproportionate advantage under this policy.

c. If you have a loss on any unit, production records for all harvested units must be provided. Production that is commingled between units will cause those units to be combined.

6. Notice of Damage or Loss

For purposes of section 8 of the general crop insurance policy the representative sample of the unharvested crop must be at least 10 feet wide and the entire length of the field.

7. Claim for Indemnity

(a) The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of rice to be counted (see subsection 7.b.);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

b. The total production to be counted for a unit will include all harvested production including any production from a second rice crop harvested in the same crop year (Any mature production from volunteer rice growing in the rice will be counted as rice on a weight basis).

(1) Mature rough rice production which otherwise is not eligible for quality adjustment will be reduced in volume by .12 percent for each .1 percentage point of moisture in excess of 12.0 percent; or

(2) Mature rough rice production which, due to insurable causes;

(a) Has a total milling yield (heads, second heads, screening, and brewers) or less than 68 pounds per hundredweight;

(b) The whole kernel weight is less than 55 pounds per hundredweight for medium and short grain varieties;

(c) The whole kernel weight is less than 48 pounds per hundredweight for long grain varieties;

(d) Contains more than 4.0 percent chalky kernels in long grain varieties;

(e) Contains more than 6.0 percent chalky kernels in medium or short grain varieties;

(f) Contains more than 3.0 percent chalky kernels in other types; or

(g) Contains more than 2.5 percent red rice will have the production adjusted by;

(i) Dividing the value per pound of such rice, by the price per pound of U.S. No. 3 rough rice; and

(ii) Multiplying the result by the number of pounds of such rice.

(The applicable price for No. 3 rough rice will be the nearest mill center price on the earlier of the day the loss is adjusted or the day the rice was sold).

c. The production to be counted will include all appraised as follows:

(1) All unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good rice farming practices.

(2) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(3) Appraised production on unharvested acreage.

(4) Appraised production on insured acreage for which we have given written consent to be put to another use unless such acreage is:

(i) Not put to another use before harvest of rice becomes general in the county and is reappraised by us;

(ii) Further damaged by an insured cause and is reappraised by us; or

(iii) Harvested.

d. A replanting payment is available under this endorsement if we determine it is practical to replant on the acreage and our appraisal does not exceed 90 percent of the guarantee on the acreage to be replanted. The replanting payment per acre will be the actual cost of replanting, but will not exceed 400 pounds multiplied by the price election, multiplied by your share.

8. Cancellation And Termination Dates

The cancellation and termination dates are:

State and county	Cancellation and termination dates
Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, LaSalle, Dimmit Counties, Texas, and all Texas countries south thereof.	February 15
Missouri	April 15
Florida	March 15
All other Texas counties and all other states	March 31

9. Contract Changes

The date by which contact changes will be available in your service office is December 31 preceding the cancellation date for counties with an April 15 cancellation date and November 30 preceding the cancellation date for all other counties.

10. Meaning of Terms

a. "County" means the land defined in the general crop insurance policy and any land identified by an ASCS Farm Serial Number for the county but physically located in another county.

b. "Harvest" means the completion of combing or threshing of rice on the unit.

c. "Mill center" means any location in which two or more mills are engaged in milling rough rice.

d. "Replanting" means performing the cultural practices necessary to replant insured acreage to rice.

e. "Second crop rice" means regrowth of a stand of rice originating from the initially insured rice crop following harvest and which can be harvested in the same crop year.

Done in Washington, DC, on August 20, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-21085 Filed 9-11-87; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 401

[Amdt. No. 7; Docket No. 4623S]

General Crop Insurance Regulations; Soybean Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, by adding a new section 7 CFR 401.117, to be known as the Soybean Endorsement. The intended effect of this rule is to provide the regulations and endorsement containing the provisions of crop insurance protection on soybeans in an endorsement to the general crop insurance policy which contains the standard terms and conditions common to most crops. The authority for the

promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than October 14, 1987 to be sure of consideration.

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

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is established as April 1, 1992.

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

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

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

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3051, Subpart V, published at 48 FR 29115, June 24, 1983.

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

FCIC herewith proposes to add to the General Crop Insurance Regulations (7 CFR Part 401), a new section to be known as 7 CFR 401.117, the Soybean Endorsement, effective for the 1988 and succeeding crop years, to provide the provisions for insuring soybeans.

Upon publication of 7 CFR 401.117 as a final rule, the provisions for insuring soybeans contained therein will supersede those provisions contained in 7 CFR Part 431, the Soybean Crop Insurance Regulations, effective with the beginning of the 1988 crop year. The present policy contained in 7 CFR Part 431 will be terminated at the end of the 1987 crop year and later removed and reserved. FCIC will propose to amend the title of 7 CFR Part 431 by separate document so that the provisions therein are effective only through the 1987 crop year.

Minor editorial changes have been made to improve compatibility with the new general crop insurance policy. These changes do not affect meaning or intent of the provisions. In adding the new Soybean Endorsement to 7 CFR Part 401, FCIC is proposing changes in the provisions for insuring soybeans as follows:

1. *Section 4*—Provide that insurance will begin on each unit or portion of a unit. This change is made to avoid instances when delayed planting of part of a unit until after the final planting date would prevent insurance from attaching on timely planted acreage. Change end of insurance period for several Southeastern states to December 31.

2. *Section 5*—Add division guidelines and add a clause to specify that division of units may result in the insured paying additional premium for guideline unit division in accordance with actuarial studies which show an increased risk when units are divided. States having unit division restrictions are added to this section. These states were previously shown on the acturial table. Add language to specify that nonirrigated corners of a center pivot irrigation system are part of the irrigated unit. The production from the total unit, both irrigated and nonirrigated, is combined to determine your unit for the purpose of determining the guarantee for the unit.

3. *Section 7*—Change the threshold for quality adjustment due to excess moisture from 14 percent to 13 percent.

4. *Section 10*—Add definitions for "Harvest," and "Section."

FCIC is soliciting public comment on this proposed rule for 30 days following publication in the **Federal Register**. Written comments received pursuant to this proposed rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 401

General crop insurance regulations, Soybean endorsement.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, as follows:

PART 401—[AMENDED]

1. The authority citation for 7 CFR Part 401 continues to read as follows:

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

2. 7 CFR Part 401 is amended to add a new section to be known as 7 CFR § 401.117 Soybean Endorsement, effective for the 1988 and succeeding crop years, to read as follows:

§ 401.117 Soybean endorsement.

The provisions of the soybean Crop Insurance Endorsement for the 1988 and subsequent crop years are as follows:

Federal Crop Insurance Corporation

Soybean Endorsement

1. Insured Crop

a. The crop insured will be soybeans planted for harvest as beans.

b. In addition to the crop not insurable to section 2 of the general crop insurance policy, we do not insure any soybeans if the seed has not been mechanically incorporated into the soil in rows during the planting process unless provided for the actuarial table.

c. A late planting agreement will be available for corn.

2. Causes of Loss

The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period.

a. Adverse weather conditions;
b. Fire;
c. Insects;
d. Plant disease;
e. Wildlife;
f. Earthquake;
g. Volcanic eruption; or
h. If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting; unless those causes are expected, excluded, or

limited by the actuarial table or section 9 of the general crop insurance policy.

3. Annual Premium

a. The annual premium amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

b. If you are eligible for a premium reduction in excess of 5 percent based on your insurance experience through the 1983 crop year under the terms of the experience table contained in the soybean policy in effect for the 1984 crop year, you will continue to receive the benefit of the reduction subject to the following condition:

(1) No premium reduction will be retained after the 1989 crop year;

(2) The premium reduction amount will not increase because of favorable experience;

(3) The premium reduction amount will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1985 crop year;

(4) Once the loss ratio exceeds .80, no further premium reduction will apply; and

(5) Participation must be continuous.

4. Insurance Period

In lieu of the provisions in section 7 of the general crop insurance policy the following will apply:

a. Insurance attaches on each unit or part of a unit when the soybean crop is planted.

b. Insurance ends on each unit at the earliest of:

(1) Total destruction of the crop;

(2) Harvest;

(3) Final adjustment of a loss;

(4) The date immediately following planting as follows:

(a) December 20 in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia

(b) December 10 in all other states.

5. Unit Division

Except in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, and Texas, soybean acreage that would otherwise be one unit, as defined in section 17 of the general crop insurance policy, may be divided into more than one unit if you agree to pay additional premium as provided by the actuarial table and if for each proposed unit:

a. You maintain written, verifiable records of planted acreage and harvested production for at least previous crop year. Production reports by unit based on those records should be filed as early as possible but must be filed by no later than the date required by subsection 4.d. of the general crop insurance policy and either;

b. acreage planted to the insured soybeans is located either in separate, legally identifiable sections or, in the absence of section descriptions the land is identified by separate ASCS Farm Serial Numbers provided:

(1) The boundaries of the sections or ASCS Farm Serial Numbers are clearly identified, and the insured acreage can be easily determined, and

(2) The soybeans are planted in such a manner that the planting pattern does not continue into an adjacent section or ASCS Farm Serial Number; or

c. The acreage planted to the insured soybeans is located in a single section or ASCS Farm Serial Number and consists of acreage on which both irrigated and nonirrigated practices are carried out, provided:

(1) Soybeans planted on the irrigated acreage do not continue into nonirrigated acreage in the same rows or planting pattern (Non-irrigated corners of a center pivot irrigation system planted to insurable grain sorghum are part of the irrigated unit. The production from the total unit, both irrigated and nonirrigated, is combined to determine your unit for the purpose of determining the guarantee for the unit.); and

(2) Planting, fertilizing and harvesting are carried out in accordance with recognized good irrigated and nonirrigated farming practices for the area.

If you have a loss on any unit, production records for all harvested units must be provided. Production that is commingled between optional units will cause those units to be combined.

6. Notice of Damage or Loss

For purposes of Section 8 of the general crop insurance policy the representative sample of the unharvested crop must be at least 10 feet wide and the entire length of the field.

7. Claim for Indemnity

a. An indemnity will be determined for each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of soybeans to be counted (see subsection 7.b.);

(3) Multiplying the remainder by your price election; and

(4) Multiplying this result by your share.

b. The total production (bushels) to be counted for a unit will include:

(1) All harvested production and may be adjusted for moisture or quality as follows:

(a) Mature soybean production which is not eligible for quality adjustment will be reduced .12 percent for each .1 percentage point of moisture in excess of 13.0 percent.

(b) Soybean production which, due to insurable causes has a test weight of elss than 49 pounds per bushel or is of distinctly low quality as determined by a grain grader licensed by the Federal Grain Inspection Service or licensed under the United States Warehouse Act will be adjusted by:

(i) Dividing the value per bushel of such soybeans by the price per bushel of U.S. No. 2 soybeans; and

(ii) Multiplying the result by the number of bushels of insured soybeans.

(c) The applicable price for No. 2 soybeans will be the local market price on the earlier of the day the loss is adjusted or the day the insured soybeans are sold.

(2) All appraised production and will include:

(a) Unharvested production on harvested acreage and potential production lost due to an uninsured causes and failure to follow recognized good soybean farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use (other than harvest) without our prior written consent or damaged solely by an uninsured cause;

(c) Appraised production on unharvested acreage;

(d) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use unless such acreage is:

(i) Not put to another use before harvest of soybeans becomes general in the county and reappraised by us;

(ii) Further damaged by an insured cause and reappraised by us; or

(iii) Harvested.

c. A replanting payment is available under this endorsement if we determine it is practical to replant. The replanting payment will be your actual cost for replanting, not to exceed your price election multiplied by 3 bushels multiplied by your share.

When the crop is replanted by a practice that was uninsurable as an original planting, the guarantee will be reduced by the amount of the replant payment. In accordance with subsection 9.h.(1)(a) no replanting payment will be made on acreage on which our appraisal exceeds 90 percent of the guarantee.

8. Cancellation and Termination Dates

State and county	Cancellation and termination dates
Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, LaSalle, and Dimmit Counties, Texas and all Texas counties lying south thereof.	February 15
Alabama; Arizona, Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; South Carolina; and El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Upton, Reagan, Sterling, Coke, Tom Green, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, Cooke Counties, Texas, and all Texas counties lying south and east thereof to and including Maverick, Zavala, Frio, Atascosa, Karnes, De Witt, Lavaca, Colorado, Wharton, and Matagorda Counties, Texas.	March 31
All other Texas counties and all other states.	April 15

9. Contract Changes

Contract changes will be available at your service office by December 31 prior to the cancellation date for counties with an April 15 cancellation date and by November 30 prior to the cancellation date for all other counties.

10. Meaning of Terms

a. "Harvest" of soybeans on the unit means combining, or removal from the field.

b. "Section" is a unit of measure under the rectangular survey system describing a tract of land generally one mile square, usually consisting of approximately 640 acres.

c. "Distinctly Low Quality" means:

(1) Exceeding 8.0 percent kernel damage (excluding heat damage);

(2) Having a musty, sour, or commercially objectionable foreign odor which causes the soybeans to grade U.S. Sample grade; or

(3) Graded as "Garlicky" soybeans.

Done in Washington, DC, on August 20, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-21086 Filed 9-11-87; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 420

[Amdt. No. 1; Doc. No. 4642S]

Grain Sorghum Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Grain Sorghum Insurance Regulations (7 CFR Part 420), effective for the 1988 crop year. The intended effect of this proposed rule is to maintain the effectiveness of the present Grain Sorghum Insurance Regulations only through the 1987 crop year. It is proposed in a separate document that the provisions currently contained in this Part will be issued as an endorsement to the newly issued 7 CFR Part 401, General Crop Insurance Regulations as § 401.113, Grain Sorghum Endorsement, effective for the 1988 and succeeding crop years. 7 CFR Part 401 is a standard set of regulations and a master policy for insuring most crops which substantially reduces: (1) The time involved in amendment or revision; (2) the necessity of the present repetitious review process; and (3) the volume of paperwork processed by FCIC. The authority for the promulgation of this rule is the Federal Crop Insurance Corporation Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than October 14, 1987, to be sure of consideration.

ADDRESS: Written comments, data, and opinions on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250. Written comments will be available for public inspection in the Office of the Manager, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC during regular business hours, Monday through Friday.

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

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

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

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

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

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

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

Background

FCIC has published over 40 policies to cover insurance on that many different crops. Many of the regulations and policies contain identical language, which, if changed requires that over 40 different policies be changed, both in the Code of Federal Regulations (CFR) and the printed policy language. This repetition of effort is both inefficient and expensive. FCIC, therefore, has published in 7 CFR Part 401, one set of regulations and one master policy to contain that language which is identical in most of the policies and regulations.

As revisions on individual policies are necessary, FCIC proposes to publish a "crop endorsement" which will contain the language of the policy unique to that crop, and any exceptions to the master policy language necessary for that crop. When an endorsement is published as a section to Part 401, effective for a subsequent crop year, the present policy contained in a separate part of Chapter IV will be terminated at the end of the crop year then in effect.

In order to clearly establish that 7 CFR Part 420 will be effective only through the end of the 1987 crop year, FCIC herein proposes to amend the subpart heading of these regulations to specify that such will be the case.

It is proposed that the new Grain Sorghum Endorsement will be published as an endorsement to 7 CFR Part 401 (401.113, Grain Sorghum Endorsement), and become effective for the 1988 and succeeding crop years. Upon final publication, the provisions of the Grain Sorghum Crop Insurance Regulations, now contained in 7 CFR Part 420, would be superseded. Therefore, FCIC proposes to amend the subpart heading to provide that 7 CFR Part 420 be effective for the 1986 and 1987 crop years only.

List of Subjects in 7 CFR Part 420

Crop insurance, Grain sorghum.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to amend the Subpart heading to the Grain Sorghum Insurance Regulations (7 CFR Part 420), as follows:

PART 420—[AMENDED]

1. The Authority citation for 7 CFR Part 420 continues to read as follows:

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

2. The Subpart heading in 7 CFR Part 420 is revised to read as follows:

Subpart—Regulations for the 1986 and 1987 crop years

Done in Washington, DC on August 20, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-21083 Filed 9-11-87; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 401

[Amdt. No. 1; Doc. No. 4340S]

General Crop Insurance Regulations; Corn Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, by adding a new section, 7 CFR 401.111, to be known as the Corn Endorsement. The intended effect of this rule is to provide the regulations and endorsement containing the provisions of crop insurance protection on corn in an endorsement to the general crop insurance policy which contains the standard terms and conditions common to most crops. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than October 14, 1987, to be sure of consideration.

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

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is established as April 1, 1992.

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

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

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

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

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

FCIC herewith proposes to add to the General Crop Insurance Regulations (7 CFR Part 401), a new section to be known as 7 CFR 401.111, the Corn Endorsement, effective for the 1988 and succeeding crop years, to provide the provisions for insuring corn.

Upon publication of 7 CFR 401.111 as a final rule, the provisions for insuring corn contained therein will supersede those provisions contained in 7 CFR Part 432, the Corn Crop Insurance Regulations, effective with the beginning of the 1988 crop year. The present policy contained in 7 CFR Part 432 will be terminated at the end of the 1987 crop year and later removed and reserved. FCIC will propose to amend the title of 7 CFR Part 432 by separate document so that the provisions therein are effective only through the 1987 crop year.

The provisions of 7 CFR 401.111 will not contain those provisions applicable to insuring corn as silage. Provisions for insuring corn on a purely silage basis will be proposed for reissue as 7 CFR 401.112 the Corn Silage Option as an amendment to this corn endorsement.

Minor editorial change have been made to improve compatibility with the new general crop insurance policy. These changes do not affect meaning or intent of the provisions. In adding the new Corn Endorsement to 7 CFR Part 401, FCIC is proposing other changes in the provisions for insuring corn as follows:

1. *Section 1.*—Add a provision to limit insurance only to acreage which is planted in rows far enough apart to permit mechanical cultivation. Add a provision indicating that corn destroyed to comply with other U.S. Department of Agriculture programs will not be insured. This provision was added to prevent insurance from attaching to the crop intended for eventual destruction to comply with other U.S. Department of Agriculture programs.

2. *Section 4.*—Provide that insurance will begin on each unit or portion of a unit. This change is made to avoid instances when delayed planting of part of a unit until after the final planting date would prevent insurance from attaching on timely planted acreage.

3. *Section 5*—Add unit division guidelines and add a clause to specify that division of units may result in the insured paying additional premium for guideline unit division in accordance with actuarial studies which show an increased risk when units are divided. Add language to specify that nonirrigated corners of a center pivot irrigation system are part of the irrigated unit. The production from the total unit, both irrigated and nonirrigated, is combined to determine your unit for the purpose of determining the guarantee for the unit.

4. *Section 7*—Add a provision for adjustment of a loss on a grain basis unless the insured enters into the "silage amendment" by the sales closing date.

5. *Section 10*—Add definitions for "Harvest", and "Section."

FCIC is soliciting public comment on this proposed rule for 30 days following publication in the **Federal Register**. Written comments received pursuant to this proposed rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 401

General crop insurance regulations, Corn endorsement.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, as follows:

PART 401—[AMENDED]

1. The authority citation for 7 CFR Part 401 continues to read as follows:

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

2. 7 CFR Part 401 is amended to add a new section to be known as 7 CFR 401.111 Corn Endorsement, effective for

the 1988 and Succeeding Crop Years, to read as follows:

§401.111 Corn endorsement.

The provisions of the Corn Crop Insurance Endorsement for the 1988 and subsequent crop years are as follows:

Federal Crop Insurance Corporation

Corn Endorsement

1. Insured Crop

a. The crop insured will be field corn ("corn") planted for harvest as grain or silage.

b. In addition to the corn not insurable according to section 2 of the general crop insurance policy, we do not insure any corn:

(1) On which the corn was destroyed or put to another use for the purpose of conforming with any other program administered by the United States Department of Agriculture;

(2) Unless the acreage is planted in rows far enough apart to permit mechanical cultivation; or

(3) Planted for silage unless a silage amendment has been completed.

c. If the actuarial table for the county provides a "silage only guarantee", coverage is only available with the completion of the silage amendment.

d. A late planting agreement will be available for corn.

2. Causes of Loss

The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

a. Adverse weather conditions;

b. Fire;

c. Insects;

d. Plant disease;

e. Wildlife;

f. Earthquake;

g. Volcanic eruption; or

h. If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9 of the general crop insurance policy.

3. Annual Premium

a. The annual premium amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

b. If you are eligible for a premium reduction in excess of 5 percent based on your insurance experience through the 1983 crop year under the terms of the experience table contained in the corn policy for the 1984 crop year, you will continue to receive the benefit of the reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1989 crop year;

(2) The premium reduction will not increase because of favorable experience;

(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1985 crop year;

(4) Once the loss ratio exceeds .80, no further premium reduction will apply;

(5) Participation must be continuous.

4. Insurance Period

The calendar date for the end of the insurance period is the date immediately following planting as follows:

(a) Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson counties, Texas, and all Texas counties lying south thereof, September 30;

(b) Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Pierce, Skagit, Snohomish, Thurston, Wahkiakum, and Whatcom counties, Washington, October 31;

(c) All other counties where our actuarial table shows:

(a) only a silage guarantee;

(b) both a grain and a silage guarantee on any acreage of corn harvested for silage, September 30;

(d) All other counties and states, December 10.

5. Unit Division

Corn acreage that would otherwise be one unit, as defined in section 17 of the general crop insurance policy, may be divided into more than one unit if you agree to pay additional premium as provided for by the actuarial table and if for each proposed unit you maintain written verifiable records of planted acreage and harvested production for at least the previous crop year. Production reports by unit based on those records should be filed as early as possible but must be filed by no later than the date required by subsection 4.d. of the general crop insurance policy and either;

a. Acreage planted to the insured corn crop is located in separate, legally identifiable sections (except in Florida) or, in the absence of section descriptions (and in Florida) the land is identified by separate ASCS Farm Serial Numbers, provided:

(1) the boundaries of the section or ASCS Farm Serial Number are clearly identified, and the insured acreage can be easily determined; and

(2) The corn is planted in such a manner that the planting pattern does not continue into an adjacent section or ASCS Farm Serial Number; or

b. Acreage planted to the insured corn is located in a single section or ASCS Farm Serial Number and consists of acreage on which both an irrigated and non-irrigated practices are carried out, provided:

(1) Corn planted on the irrigated acreage does not continue into nonirrigated acreage in the same rows or planting pattern (nonirrigated corners of a center pivot irrigation system planted to insured corn are part of the irrigated unit. The production from the total unit, both irrigated and nonirrigated, is combined to determine your unit for the purpsoe of determining the guarantee for the unit.); and

(2) Planting, fertilizing, and harvesting are carried out in accordance with recognized good irrigated and non-irrigated farming practices for the area.

If you have a loss on any unit, production records for all harvested units must be provided. Production that is commingled between units will cause the production from those units commingled to be combined for the purpose of calculating an indemnity.

6. Notice of Damage or Loss

In addition to the notices required in section 8 of the general crop insurance policy, you must give us written notice if you have been prevented from planting at least your ASCS permitted acreage on any Farm Number to corn or any other non-conserving corp through the prevented planting date. Such notice must be given no later than the acreage reporting date. For purposes of section 8 of the general crop insurance policy the representative sample of the unharvested crop must be at least 10 feet wide and the entire length of the field. We may reject any claim for indemnity if you fail to comply with any of the requirements of this section.

7. Claim for Indemnity

a. An indemnity will be determined for each grain unit by:

(1) Multiplying the insured grain acreage by the production guarantee;

(2) Subtracting therefrom the total production of grain to be counted (See subsection 7.d.)

(3) Multiplying this product by the grain price election; and

(4) Multiplying this result by your share.

b. When the actuarial table provides a bushel guarantee only or a bushel and tonnage guarantee (and you do not have a timely signed silage option) all appraisals will be made in bushels.

c. When the actuarial table provides a tonnage guarantee, and a corn silage amendment is in effect, the indemnity will be determined in accordance with the procedure shown on the corn silage amendment.

d. The total production (bushels) to be counted for a unit with a grain guarantee will include:

(1) All harvested production and may be adjusted for moisture or quality as follows:

(a) Mature grain which otherwise is not eligible for quality adjustment will be reduced .12 percent for each .1 percentage point of moisture in excess of 15.5 through 30.0 percent and .2 percent for each .1 percentage point of moisture from 30.1 through 40.0 percent; or

(b) Mature grain which, due to insurable causes, has moisture over 40 percent; test weight below 40 pounds per bushel; or kernel damage more than 15 percent as determined by a grain grader licensed by the Federal Grain Inspection Service or licensed under the United States Warehouse Act, will be adjusted by:

(1) Dividing the value per bushel of such corn by the price per bushel of U.S. No. 2 corn; and

(2) Multiplying the result by the number of bushels of such corn.

The applicable price for No. 2 corn will be the local market price on the earlier of the day the loss is adjusted or the day such corn was sold. The quality adjustment will not reduce the harvested production more than 75 percent so that at least 25 percent of harvested production will count.

(2) All appraised production which will include:

(a) Unharvested production on harvested acreage and potential production lost due to

an uninsured causes and failure to follow recognized good corn farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Appraised production on unharvested acreage;

(d) For any acreage of corn reported as grain and harvested as silage, indemnity calculations will be converted to a bushel basis at the conversion rate shown in the form FCI-35 for silage harvested or appraised from a grain variety.

(e) Appraised production on insured acreage for which we have given written consent to be put to another use unless such acreage is:

(i) Not put to another use before harvest of corn becomes general in the country and reappraised by us;

(ii) Further damaged by an insured cause and reappraised by us; or

(iii) Harvested.

e. A replanting payment is available under this endorsement if we determine it is practical to replant on a unit and our appraisal does not exceed 90 percent of the guarantee. The replanting payment will not exceed 8 bushels multiplied by the price election, multiplied by your share. When the crop is replanted by a practice that was uninsurable as an original planting, the guarantee will be reduced by the amount of the replanting payment.

8. Cancellation and Termination Dates

State and County	Cancellation and termination dates
Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties lying south thereof.	February 15.
Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; South Carolina; and El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Upton, Reagan, Sterling, Coke, Tom Green, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, Cooke Counties, Texas, and all Texas Counties lying south and east thereof to and including Terrell, Crockett, Sutton, Kimble, Gillespie, Blanco, Comal, Guadalupe, Gonzales De Witt Lavaca, Colorado, Wharton, and Matagorda Counties, Texas.	March 31.
All other Texas counties and other states.	April 15.

9. Contract Changes

Contract changes will be available at your service office by December 31 preceding the cancellation date for counties with an April 15 cancellation date and by November 30 preceding the cancellation date for all other counties.

10 Meaning of Terms

a. "Harvest" of corn for grain on the unit means completion of combining and/or picking the corn for grain.

b. "Section" means a unit of measure under the rectangular survey system describing a tract of land generally one mile square, usually containing approximately 640 acres.

Done in Washington, DC, on August 18, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-21079 Filed 9-11-87; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 401

[Amdt. No. 2; Doc. No. 4343S]

General Crop Insurance Regulations; Corn Silage Option

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, by adding a new section, 7 CFR 401.112 to be known as the Corn Silage Option. The intended effect of this rule is to provide the regulations and endorsement containing the provisions of crop insurance protection on corn on an optional silage basis in an endorsement to the General Crop Insurance policy which contains the standard terms and conditions common to most crops. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than October 14, 1987, to be sure of consideration.

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

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is April 1, 1992.

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

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

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

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

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

FCIC herewith proposes to add to the General Crop Insurance Regulations (7 CFR Part 401), a new section to be known as 7 CFR 401.112, the Corn Silage Option, effective for the 1988 and succeeding crop years, to provide the provisions for insuring corn on an optional silage basis.

Upon publication of 7 CFR 401.112 as a final rule, the provisions for insuring

corn as silage contained therein will supersede those silage provisions contained in 7 CFR Part 432, the Corn Crop Insurance Regulations, effective with the beginning of the 1988 crop year.

The remaining non-silage provisions contained in 7 CFR Part 432 will be reissued as 7 CFR 401.111, the Corn Endorsement.

The present policy contained in 7 CFR Part 432 will be terminated at the end of the crop year and later removed and reserved. FCIC will propose to amend the title of 7 CFR Part 432 by separate document so that the provisions therein are effective only through the 1987 crop year.

Minor editorial changes have been made to improve compatibility with the new general crop insurance policy. These changes do not affect meaning or intent of the provisions. In adding the new Corn Silage Option to 7 CFR Part 401 as outlined below, no changes were made to the provisions for insuring corn as silage.

FCIC herewith proposes to add to the General Crop Insurance Regulations (7 CFR Part 401), a new section to be known as 7 CFR 401.112, the Corn Silage Option, effective for the 1988 and succeeding crop years, to provide the provisions for insuring corn on an optional silage basis.

FCIC is soliciting public comment on this proposed rule for 30 days following publication in the **Federal Register**. Written comments received pursuant to this notice will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 401

General crop insurance regulations, Corn silage option.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, in the following instances:

PART 401—[AMENDED]

1. The authority citation for 7 CFR Part 401 continues to read as follows:

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

2. 7 CFR Part 401 is amended to add a new section to be known as 7 CFR 401.112 Corn Silage Option, effective for the 1988 and Succeeding Crop Years, to read as follows:

§ 401.112 Corn silage option.

The provisions of the Corn Silage Crop Insurance Option amendment to the Corn Crop Insurance Endorsement for the 1988 and subsequent crop years are as follows:

Federal Crop Insurance Corporation

Corn Silage Option

Insured's Name

Address

Contract No.

Crop Year

Identification No.

SSN

Tax

Upon our approval, this amendment is applicable for the 1988 and succeeding crop years.

1. You must have a corn endorsement in force. The corn endorsement provides guaranteed protection on a bushel basis for corn harvested as grain only.

2. All provisions of the corn endorsement not in conflict with this amendment remain applicable. If a conflict exists between the terms of the endorsement and this silage option, the terms of the silage option apply.

3. A properly executed Corn Silage Option must be submitted to us on or before the sales closing date if you wish to insure your corn as silage under this amendment.

4. The silage option remains in force and need not be renewed annually. If you desire to cancel the option, you must do so in writing by the cancellation date shown in the actuarial table. The silage option is mandatory if required by the actuarial table.

5. Failure to submit a properly executed silage option amendment by the sales closing date will result in all your corn being insured under the terms and conditions of the corn endorsement.

6. All production and appraisals under this amendment will be in tons. When the corn is harvested as silage and a grain appraisal is made concurrently with a silage appraisal, and the grain/silage appraisal is less than 4.5 bushels per ton, the production will be reduced 1 percent for each 1 tenth of a bushel below 4.5 bushels. The representative sample required by subsection 8.a.(3) of the general policy must be at least 10 feet wide and the entire length of the field. If a representative sample is not left unharvested, no reduction for harvested silage will be allowed.

7. If the actuarial table shows both a grain and silage guarantee, and the normal silage harvesting period has ended, we may increase any tonnage appraisal or any harvested silage production to 65 percent moisture equivalent to reflect the normal moisture content of silage harvested during the normal silage harvesting period.

8. A replanting payment will be available in accordance with subsection 9.h. of the general policy if it is practical to replant. The payment will not exceed 1 ton, multiplied by the price election, multiplied by your share.

Your premium rate under this amendment is that specified for silage corn on the actuarial table. If only one premium rate is shown by the actuarial table it will be applied to both grain and silage. Mixtures of corn and grain sorghum are insurable for silage only if the sorghum does not exceed 20 percent of the stand.

The end of the insurance period under the silage option amendment is September 30 for the crop year. The silage option amendment is not usable in corn counties which offer coverage only on a bushel basis.

Insured's Signature

(Date)

Agent's Signature

(Date)

Approved by Company

(Date)

Done in Washington, DC, on August 20, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87–21078 Filed 9–11–87; 8:45 am]

BILLING CODE 3410–08–M

7 CFR Part 421

[Amt. No. 2; Docket No. 4716S]

Cotton Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Cotton Crop Insurance Regulations (7 CFR Part 421), effective for the 1988 crop year. The intended effect of this proposed rule is to maintain the effectiveness of the present Cotton Crop Insurance Regulations only through the 1987 crop year. It is proposed in a separate document that the provisions currently contained in this Part will be issued as an endorsement to the newly proposed 7 CFR Part 401, General Crop Insurance Regulations (401.119, Cotton Endorsement), effective for the 1988 and succeeding crop years. 7 CFR Part 401 will be a standard set of regulations and a master policy for insuring most crops authorized under the provisions of the Federal Crop Insurance Act, as amended, and will substantially reduce: (1) The time involved in amendment or

revision; (2) the necessity of the present repetitious review process; and (3) the volume of paperwork processed by FCIC. The authority for the promulgation of this rule is the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than October 14, 1987, to be sure of consideration.

ADDRESS: Written comments, data, and opinions on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250. Written comments will be available for public inspection in the Office of the Manager, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC during regular business hours, Monday through Friday.

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is August 1, 1989.

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

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

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

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

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

Background

FCIC has published over 40 policies to cover insurance on that many different crops. Many of the regulations and policies contain identical language, which, if changed requires that over 40 different policies be changed, both in the Code of Federal Regulations (CFR) and the printed policy language. This repetition of effort is both inefficient and expensive. FCIC, therefore, has proposed to publish in 7 CFR Part 401, one set of regulations and one master policy to contain that language which is identical in most of the policies and regulations.

As revisions on individual policies are necessary, FCIC proposes to publish a "crop endorsement" which will contain the language of the policy unique to that crop, and any exceptions to the master policy language necessary for that crop. When an endorsement is published as a section to Part 401, effective for a subsequent crop year, the present policy contained in a separate part of Chapter IV will be terminated at the end of the crop year then in effect.

In order to clearly establish that 7 CFR Part 421 will be effective only through the end of the 1987 crop year, FCIC herein proposes to amend the subpart heading of these regulations to specify that such will be the case.

It is proposed that the new Cotton Endorsement will be published as an endorsement to 7 CFR Part 401 § 401.119, Cotton Endorsement), and become effective for the 1988 and succeeding crop years. Upon final publication, the provisions of the Cotton Crop Insurance Regulations, now contained in 7 CFR Part 421, would be superseded. Therefore, FCIC proposes to amend the subpart heading to provide that 7 CFR Part 421 be effective for the 1986 and 1987 crop years only.

List of Subjects in 7 CFR Part 421

Crop insurance, Cotton.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to amend the Subpart heading to the Cotton Crop Insurance Regulations (7 CFR Part 421), as follows:

PART 421—[AMENDED]

1. The Authority Citation for 7 CFR Part 421 continues to read as follows:

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

2. The Subpart heading in 7 CFR Part 421 is revised to read as follows:

Subpart—Regulations for the 1986 and 1987 Crop Years

Done in Washington, DC on August 21, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87–21081 Filed 9–11–87; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 438

[Amdt. No. 2, Doc. No. 4634S]

Canning and Processing Tomato Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Canning and Processing Tomato Crop Insurance Regulations (7 CFR Part 438), effective for the 1988 crop year. The intended effect of this proposed rule is to maintain the effectiveness of the present Canning and Processing Tomato Crop Insurance Regulations only through the 1987 crop year. It is proposed in a separate document that the provisions currently contained in this Part will be issued as an endorsement to the newly issued 7 CFR Part 401, General Crop Insurance Regulations as § 401.114, Canning and Processing Tomato Endorsement, effective for the 1988 and succeeding crop years. 7 CFR Part 401 is a standard set of regulations and a master policy for insuring most crops which substantially reduces: (1) The time involved in amendment or revision; (2) the necessity of the present repetitious review process; and (3) the volume of paperwork processed by FCIC. The authority for the promulgation of this rule is the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be

submitted not later than October 14, 1987, to be sure of consideration.

ADDRESS: Written comments, data, and opinions on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250. Written comments will be available for public inspection in the Office of the Manager, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC during regular business hours, Monday through Friday.

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is August 1, 1989.

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

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

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

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

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

Background

FCIC has published over 40 policies to cover insurance on that many different crops. many of the regulations and policies contain identical language, which, if changed requires that over 40 different policies be changed, both in the Code of Federal Regulations (CFR) and the printed policy language. This repetition of effort is both inefficient and expensive. FCIC, therefore, has published in 7 CFR Part 401, one set of regulations and one master policy to contain that language which is identical in most of the policies and regulations.

As revisions on individual policies are necessary, FCIC proposes to publish a "crop endorsement" which will contain the language of the policy unique to that crop, and any exceptions to the master policy language necessary for that crop. When an endorsement is published as a section to Part 401, effective for a subsequent crop year, the present policy contained in a separate part of Chapter IV will be terminated at the end of the crop year then in effect.

In order to clearly establish that 7 CFR Part 438 will be effective only through the end of the 1987 crop year, FCIC herein proposes to amend the subpart heading of these regulations to specify that such wil be the case.

It is proposed that the new Canning and Processing Tomato Endorsement will be published as an endorsement to 7 CFR Part 401 (401.114, Canning and Processing Tomato Endorsement), and become effective for the 1988 and succeeding crop years. Upon final publication, the provisions of the Canning and Processing Tomato Crop Insurance Regulations, now contained in 7 CFR Part 438, would be superseded. Therefore, FCIC proposes to amend the subpart heading to provide that 7 CFR Part 438 be effective for the 1986 and 1987 crop years only.

List of Subjects in 7 CFR Part 438

Crop insurance, Canning and processing tomato.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to amend the Subpart heading to the Canning and Processing Tomato Crop Insurance Regulations (7 CFR Part 438), as follows:

PART 438—[AMENDED]

1. The Authority citation for 7 CFR Part 438 continues to read as follows:

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

2. The Subpart heading in 7 CFR Part 438 is revised to read as follows:

Subpart—Regulations for the 1986 and 1987 Crop Years

Done in Washington, DC on August 20, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87–21087 Filed 9–11–87; 8:45 am]

BILLING CODE 3410–08–M

Agricultural Marketing Service

7 CFR Part 981

Almonds Grown in California; Administrative Rules and Regulations Governing Quality Control

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would change the administrative rules and regulations established under the Federal marketing order for California almonds to change the tolerance for inedible almonds from 3 percent to 0 percent. The change would improve the quality of California almond shipments.

DATE: Comments must be received by September 29, 1987.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, USDA, AMS, Fruit and Vegetable Division, P.O. Box 96456, Room 2085, South Building, Washington, DC 20090–6456. Comments should reference the date and page number of this issue of the Federal Register and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: James M. Scanlon, Acting Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, 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 determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act, (RFA), the Administrator of the Agricultural Marketing Service (AMS) has

considered the economic impact of this proposed rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601 through 674), as amended, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 105 handlers of almonds under the marketing order for California almonds who are subject to regulation during the course of the current season. There are approximately 7,500 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2 (1985)) as those having average annual gross revenues for the last three years of less than $100,000, and agricultural service firms have been defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of California almonds may be classified as small entities.

This proposed rule would lower from 3 percent to 0 percent the tolerance for inedible almonds in each variety of almonds processed by handlers. The change is proposed in view of a projected high quality 1987 almond crop. It is the general policy of the Almond Board of California (ABC) to recommend adjustments in the inedible tolerance based on crop quality.

When crop quality is poor, the precentage of inedibles in lots of almonds received by handlers from growers is high, and handlers have difficulty removing inedibles to meet low tolerances with the constraints of industry processing capabilities. Inedibles are removed by a combination of machine and manual labor. Thus, handlers need the flexibility provided by a higher tolerance precentage for inedibles when the quality is poor. On the other hand, when crop quality is good and there are few inedibles in lots of almonds received by handlers, handlers have the capability of removing a larger percentage of the inedibles. In this case, a lower tolerance is warranted. Therefore, it is the Agency's view that the proposed lower tolerance for inedible almonds can be implemented without handlers incurring significant additional costs.

Based on the above, the Administrator of the AMS has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposal would amend §981.442(a)(4) of Subpart—Administrative Rules and Regulations issued under marketing agreement and Order No. 981 (7 CFR Part 981), both as amended, regulating the handling of almonds grown in California. The order is effective under the Act. The proposal is based on a recommendation of the ABC, which is responsible for local administration of the order, and other information.

Section 981.442(a)(4) of the administrative rules and regulations currently requires the weight of inedible kernels in each variety in excess of 3 percent of the kernel weight received by handlers to be reported to the ABC. This weight must be accumulated during processing and delivered to the ABC or ABC accepted crushers, feed manufacturers, or feeders.

It is proposed to amend §981.442(a)(4) by changing the tolerance for calculating a handler's disposition obligation from 3 percent to 0 percent. This action would allow for stricter quality control while still maintaining ample supplies of almonds to meet trade demand. The change is intended to provide a higher quality product to almond users and consumers. The industry has the capability of implementing such stricter control due to a projected high quality 1987 almond crop.

Interested persons are invited to submit their views and comments on this proposal. A 15-day comment period is considered adequate because the current crop year began on July 1, 1987. Handlers are now receiving and processing 1987 crop almonds, and they need to know as soon as possible whether or not a change in the inedible tolerance will be adopted.

List of Subjects in 7 CFR Part 981

Marketing agreements and orders, Almonds, California.

For the reasons set forth in the preamble, 7 CFR Part 981 is proposed to be amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 981 continues to read as follows:

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

Subpart—Administrative Rules and Regulations

2. Section § 981.442 is amended by revising the first sentence of paragraph (a)(4) to read as follows:

§ 981.442 Quality control.

(a) * * *

(4) *Disposition obligation.* The weight of inedible kernels in excess of 0 percent of kernel weight reported to the Board of any variety received by a handler shall constitute that handler's disposition obligations. * * *

* * * * * *

Dated: September 4, 1987.

Ronald L. Cioffi,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 87–21090 Filed 9–11–87; 8:45 am]

BILLING CODE 3410–02–W

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 85–080]

Importation of Meat and Animal Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the regulations in 9 CFR Part 94 by uniformly changing the language which prohibits *entry* into the United States of certain animal products, to language which would prohibit the *importation* of such products. This proposal would also change the present requirement that specified certificates accompany certain imported articles to a requirement that the specified certificates both accompany the articles and be presented to an authorized inspector of the United States Department of Agriculture at the time of importation. This proposal would also require that certificates accompany cured and cooked meats imported from countries where foot-and-mouth disease or rinderpest exists and be presented at the port of arrival in the United States. These changes would enhance the ability of the Department to enforce 9 CFR Part 94 and would, therefore, assist the effort to prevent the introduction of certain animal diseases into the United States.

DATE: Consideration will be given only to comments postmarked or received on or before November 13, 1987.

ADDRESSES: Send an original and two copies of written comments to Steven B. Farbman, Assistant Director, Regulatory Coordination APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number

85–080. Comments received may be inspected in Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT:
Dr. Richard Bowen, Import-Export and Emergency Planning Staff, VS, APHIS, USDA, Room 806, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. 301–436–8499.

SUPPLEMENTARY INFORMATION:

Background

Importation Prohibitions

The regulations in 9 CFR Part 94 (referred to below as the regulations) regulate, among other things, the importation into the United States of certain animals, meat, and animal products. These regulations are designed to prevent the introduction into the United States of foot-and-mouth disease, rinderpest, African swine fever, hog cholera, swine vesicular disease, and viscerotropic velogenic Newcastle disease. However, in certain instances in 9 CFR Part 94, terminology prohibiting "entry" is used where terminology prohibiting "importation" is intended.

The term "importation" under the animal quarantine laws means to bring within the territorial limits of the United States. The term "entry" means to introduce into the commerce of the United States after release fro government detention.

In order to exclude the diseases noted above, the regulations should provide for the least possible risk of animals, meat, or animal products that could transmit the diseases to domestic animals. This prevention is most effectively accomplished by restricting or prohibiting the importation of such animals, meat, or animal products, where control can be exercised over articles prior to their entry into the commerce of the United States.

As noted above, however, the regulations in some cases prohibit or restrict *entry* instead of *importation*. This distinction is important because prohibited animals, meat, and animal products are often confiscated during customs inspections at ports of entry after the articles have been *imported* but before they have been *entered* into the United States. In some cases, penalties cannot be successfully imposed on violators because the imported articles have been confiscated before their entry. Such cases reduce the effectiveness of the regulations in deterring attempts to bring prohibited articles into the United States.

This proposal would amend the language of the regulations to specify that a violation occurs upon the importation, not the entry, of a prohibited article. Language in the regulations prohibiting *entry* into the United States of certain animals, meat, and animal products would be uniformly changed to language prohibiting the *importation* of such articles.

Port of Arrival

The proposal would substitute the term "port of arrival" for the present term "port of entry," which is used in various sections in Part 94. Imported meats or animal products must satisfy various requirements at the port of entry, such as inspection or presentation of certificates before the meat or animal products are released from the port into the United States. However, in some cases, meat products may arrive at one port (the port of arrival) and be shipped to another location (the port of entry) at which formal clearance through Customs and other requirements are accomplished. Such shipment of uncleared meat or animal products within the United States presents a risk of disease transmission, as pilferage, loss, or container damage while in transit may allow transmission of disease organisms to domestic animals.

The Department believes that this risk can be minimized by ensuring that the provisions of Part 94, which control the importation of meat and animal products, are applied at the port of arrival, rather than the port of entry. Therefore, the term "port of entry" would be changed to "port of arrival" wherever it appears in Part 94.

Presentation of Certificates

In some cases, meat or meat products shipped from countries not recognized by the United States Department of Agriculture as free of the diseases addressed in the regulations are permitted importation into the United States if they are processed in such a way as to eliminate the risk of spreading the diseases from the country of shipment to the United States, and are accompanied by required documentation.

In certain cases, when these articles are shipped for importation into the United States, they must be accompanied by prescribed certificates and, if required, other documents that attest that the required conditions for the preparation and shipment of the products have been met. Currently, the regulations require only that these certificates accompany the articles to the United States. In order for the Department to confirm that the prescribed conditions for the articles' importation have been met, it is necessary to require not only that the certificates accompany the meat or meat products, but also that they be presented to the Department's authorized inspector at the time of importation. This proposal includes provisions that would require that the meat certificates be presented to the Department's authorized inspector at the port of arrival upon the arrival of the products in the United States.

Importation From Countries Not Recognized by the United States Department of Agriculture as Free of Rinderpest and Foot-and-Mouth Disease

Cured meats and cooked meats are permitted importation into the United States from countries where rinderpest or foot-and-mouth disease exists, if those meats are prepared and transported according to specified conditions which eliminate the risk of disease transmission. Currently, no certificate attesting to the fulfillment of these conditions is required to accompany the meats to the United States. The Department has found, however, that visual inspection of the meats at the port of arrival is not adequate to determine that the meats were prepared and transported according to the conditions necessary to eliminate the risk of disease transmission. In order to provide a mechanism whereby the Department can confirm that the required conditions have been met, it is proposed that importation of such meats be permitted only if the meats are accompanied by a certificate issued by an authorized official of the national government of the country of origin, stating that the meats have been prepared according to the conditions for cooking or curing specified in § 94.4. Upon arrival of the meats in the United States, the certificate must be presented to an authorized inspector at the port of arrival.

Miscellaneous

This document would define certain terms and also make certain nonsubstantive changes in the regulations for purposes of clarity.

Executive Order 12291 and Regulatory Flexibility Act

This proposed rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this proposed rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries,

Federal, State, or local government agencies, or geographic regions; and would 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 majority of this proposal is concerned with clarifying where certain, presently required, certificates must be presented to U.S. officials upon arrival of certain animal products in the United States, specifying that such certificates must be presented at the port of arrival, rather than at the port of entry. With two exceptions, this proposal would not alter the present provisions governing which products require certification when shipped to the U.S.

The proposal that presentation of the certificates be made at the port of arrival would have no economic impact, other than that of facilitating imposition of penalties on violators of the regulations. The Department anticipates that total additional penalties collected annually because of the proposed changes would amount to less than $4,000.

The change that does affect certification would establish provisions to require certification for importation of cooked or cured meats from countries where rinderpest or foot-and-mouth disease exists. The economic impact of obtaining certification would be minimal, and the products affected would represent significantly less than 1 percent of all such animal products entering the U.S. economy.

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.

Paperwork Reduction Act

The regulations in this proposal contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 *et seq.*).

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

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

Accordingly, it is proposed to amend regulations in 9 CFR Part 94 as follows:

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

1. The authority citation for Part 94 would be revised 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; 31 U.S.C. 9701; 42 U.S C. 4331, 4332; 7 CFR 2.17, 2.51, and 371.2(d).

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

§ 94.0 Definitions.

For the purpose of this part, the following terms have the meanings set forth in this section.

Administrator. The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any other employee of the United States Department of Agriculture to whom authority is delegated to act in his or her stead.

Authorized inspector. Any employee of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any other individual who is authorized by the Administrator to enforce this part.

Deputy Administrator. The Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, or any other employee of the United States Department of Agriculture to whom authority is delegated to act in his or her stead.

Import (imported, importation) into the United States. To bring into the territorial limits of the United States.

Port of arrival. Any place in the United States at which a product or article arrives, unless the product or article remains on the means of conveyance on which it arrived within the territorial limits of the United States.

United States. The several States, the District of Columbia, Puerto Rico, the Virgin Islands of the United States, Guam, the Northern Mariana Islands, or any other territory or possession of the United States, except as provided in § 94.5 of this part.

Veterinary Services. Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture.

Veterinary Services representative. An individual employed by Animal and Plant Health Inspection Service, United States Department of Agriculture, who is authorized to perform the function involved.

3. In § 94.1, the heading and paragraph (c) would be revised to read:

§ 94.1 Designation of countries where foot-and-mouth disease or rinderpest exists; importations prohibited.

* * * * *

(c) Except as otherwise provided in this part, the importation of fresh, chilled, or frozen meat of ruminants or swine which originates in a country free of foot-and-mouth disease and rinderpest, as designated in paragraph (a) of this section, but which enters a port or otherwise transits a country where foot-and-mouth disease or rinderpest exists may be imported if:

(1) The meat is accompanied by the foreign meat inspection certificate required by § 327.4 of this title and, upon arrival of the meat in the United States, the foreign meat inspection certificate is presented to an authorized inspector at the port of arrival;

(2) The meat is placed in the transporting carrier in a hold or compartment which was sealed in the country of origin by an official of such country with serially numbered seals approved by Veterinary Services, so as to prevent contamination, and the loading of any cargo into and the removal of any cargo from such sealed hold or compartment, en route to the United States;

(3) The serial numbers of the seals used to seal the hold or compartment of the transporting carrier are recorded on the foreign meat inspection certificate which accompanies the meat;

(4) Upon arrival of the carrier in the United States port of arrival, the seals are found by a Veterinary Services representative to be intact, and the Veterinary Services representative finds that there is no evidence indicating that the seals were tampered with; and

(5) The meat is found by an authorized inspector to be as represented on the foreign meat inspection certificate.

§ 94.3 [Amended]

4. Section 94.3 would be amended by changing "Deputy Administrator, Veterinary Services" to read "Deputy Administrator".

§ 94.4 [Amended]

5. Section 94.4 would be amended by changing "Deputy Administrator,

Veterinary Sevices" to "Deputy Administrator" each time it appears, by changing "port of entry" to "port of arrival" each time it appears, and by removing "said" each time it appears.

6. In § 94.4, present paragraph (b)(3) would be redesignated as (b)(4) and new paragraphs (a)(4) and (b)(3) would be added to read as follows:

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

(a) * * *

(4) The meat shall be accompanied by a certificate issued by an official of the national government of the country of origin who is authorized to issue the foreign meat inspection certificate required by § 327.4 of this title, stating that such meat has been prepared in accordance with paragraphs (a)(1), (a)(2) and (a)(3)(i) of this section. Upon arrival of such cured meat in the United States, the certificate must be presented to an authorized inspector at the port of arrival.

(b) * * *

(3) The meat shall be accompanied by a certificate issued by an official of the national government of the country of origin who is authorized to issue the foreign meat inspection certificate required by § 327.4 of this title, stating that such meat has been prepared in accordance with paragraphs (b)(1) and (b)(2) of this section. Upon arrival of such cooked meat in the United States, the certificate must be presented to an authorized inspector at the port of arrival.

* * * * *

7. In § 94.6, paragraph (d)(2), the reference to "Deputy Administrator, Veterinary Services," would be changed to "Deputy Administrator".

8. In § 94.6, the first sentence in footnote 3 would be revised to read:

[3] The names and addresses of approved establishments may be obtained from, and requests for approval of an establishment may be made to, the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Washington, DC 20250. * * *

9. In § 94.6, paragraph (d)(4), the reference to "port of entry" would be changed to "port of arrival".

10. In § 94.6, paragraph (e), the reference to "Deputy Administrator, Veterinary Services" would be changed to "Deputy Administrator".

11. Section 94.6 would be amended by revising the introductory text in paragraph (g)(1) to read as follows:

§ 94.6 Carcasses of poultry, game birds, and other birds, parts or products thereof, and eggs other than hatching eggs; restrictions, exceptions.

* * * * *

(g) * * *

(1) The eggs are accompanied by a certificate signed by a salaried veterinary officer of the national government of the country of origin. Upon arrival of the eggs in the United States, the certificate must be presented to an authorized inspector at the port of arrival. The certificate must state:

* * * * *

12. In § 94.6, in the concluding paragraph of paragraph (g)(2)(ii), the reference to "Deputy Administrator, Veterinary Services" would be changed to read "Deputy Administrator".

13. In § 94.6, paragraphs (h) (2) and (3), the references to "Deputy Administrator, Veterinary Services," would be changed to read "Deputy Administrator" each time they appear.

§ 94.7 [Amended]

14. In § 94.7, the references to "Deputy Administrator, Veterinary Services," would be changed to read "Deputy Administrator" each time they appear.

§§ 94.8, 94.9, 94.12 and 94.16 [Amended]

15. In Part 94, the footnotes designated as 7a through 11 would be redesignated accordingly: Redesignate 11 as 13, 9 as 11, 7a as 9, 10 as 12, and 8 as 10. The references to the footnotes in §§ 94.8, 94.9, 94.12, and 94.16 would be changed accordingly: In § 94.8, change 7a as 9; in § 94.9, change 8 as 10 and change 9 as 11; in § 94.12, change 10 as 12 and change 9 as 11; and in § 94.16, change 11 as 13.

16. Section 94.8 would be amended by changing the references to "Deputy Administrator, Veterinary Services" to read "Deputy Administrator" each time they appear, by changing the references to "port of entry" to "port of arrival" each time they appear, and by revising the introductory text for this section, the introductory text in paragraph (a), and paragraphs (a)(3)(v) and (a)(3)(vi) to read as follows:

§ 94.8 Pork and pork products from countries where African swine fever exists or is reasonably believed to exist.

African swine fever exists or the Administrator has reason to believe that African swine fever exists [8] in: All the countries of Africa, Brazil, Cuba, Haiti, Italy, Malta, Netherlands, Portugal, and Spain.

(a) No pork or pork products may be imported into the United States from any country listed in this section unless:

* * * * *

(3) * * *

(v) It was processed at only one processing establishment in a country listed in this section; and

(vi) It is accompanied by a certificate issued by an official of the national government of the country in which the processing establishment is located who is authorized to issue the foreign meat inspection certificate required by § 327.4 of this title, stating that all of the requirements of this section have been met. Upon arrival of the pork or pork products in the United States, the certificate must be presented to an authorized inspector at the port of arrival.

* * * * *

17. In § 94.9, paragraph (a) would be revised to read:

§ 94.9 Pork and pork products from countries where hog cholera exists.

(a) Hog cholera is known to exist in all countries of the world except Australia, Canada, Denmark, Dominican Republic, Fiji, Finland, Iceland, New Zealand, Northern Ireland, Norway, the Republic of Ireland, Sweden, and Trust Territory of the Pacific Islands.[10]

* * * * *

18. In § 94.9, paragraph (b)(2), the reference to "§ 94.9(b)(1) (ii) or (iii)" would be changed to read "paragraphs (b)(1) (ii) or (iii) of this section" and the reference to "§ 327.2 in Chapter III of this title" would be changed to read "§ 327.2 of this title".

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

[8] The Administrator bases the reason to believe African swine fever exists in a country on the following factors: (1) When a country allows the importation of host animals, pork or pork products, or vectors of African swine fever from a country in which African swine fever exists under conditions less stringent than those prescribed for importing host animals, pork or pork products, or vectors of African swine fever into the United States from a country in which African swine fever exists; or (2) When a country allows the importation or use of African swine fever virus or cultures under conditions less stringent than those prescribed for the importation or use of African swine fever virus or cultures into or within the United States; or (3) The proximity of a country to another country with known outbreaks of African swine fever; or (4) A country's lack of a disease detection, control or reporting system capable of detecting or controlling African swine fever and reporting it to the United States in time to allow this country to take appropriate action to prevent the introduction of African swine fever into the United States; or, (5) Any other fact or circumstance found to exist which constitutes a risk of introduction of African swine fever into the United States.

[10] See also other provisions of this part and Parts 92, 95, 96, and 327 of this chapter for other prohibitions and restrictions upon importation of swine and their products.

19. In § 94.9, paragraph (b), the introductory text and paragraph (b)(3) would be revised to read as follows:

* * * * *

(b) No pork or pork product may be imported into the United States from any country where hog cholera is known to exist unless it complies with the following requirements:

* * * * *

(3) In addition to the foreign meat inspection certificate required by § 327.4 of this title, pork and pork products prepared under paragraphs (b)(1) (ii) or (iii) of this section shall be accompanied by a certificate that states that the provisions of paragraphs (b)(1) (ii) or (iii) of this section have been met. This certificate shall be issued by an official of the national government of the country of origin who is authorized to issue the foreign meat inspection certificate required by § 327.4 of this title.[11] Upon arrival of the articles in the United States, the certificate must be presented to an authorized inspector at the port of arrival.

* * * * *

20. In § 94.9, paragraph (b)(4), the reference to "Deputy Administrator, Veterinary Services" would be changed to read "Deputy Administrator".

21. In § 94.9, paragraph (c), the reference to "§ 94.9(b)(1)(iii)" would be changed to read "paragraph (b)(1)(iii) of this section", and the reference to "§ 94.12(b)(1)(iii)" would be changed to read "§ 94.12(b)(1)(iii) of this part".

22. Section 94.10 would be revised to read as follows:

§ 94.10 Swine from countries where hog cholera exists.

(a) Hog cholera is known to exist in all countries of the world except Australia, Canada, Denmark, Dominican Republic, Fiji, Finland, Iceland, New Zealand, Northern Ireland, Norway, the Republic of Ireland, Sweden, and Trust Territory of the Pacific Islands. No swine which originate in or are moved from or transit any country in which hog cholera is known to exist may be imported into the United States except wild swine imported in accordance with paragraph (b) of this section.

(b) Wild swine may be allowed importation by the Deputy Administrator upon request in specific cases under § 92.4(c) or § 92.2 of this chapter.

23. In § 94.11, the introductory text in paragraph (c) would be revised to read as follows:

§ 94.11 Restrictions on importation of meat and other animal products from specified countries.

* * * * *

(c) *Additional certification.* Meat of ruminants or swine or other animal products from countries designated in paragraph (a) of this section must be accompanied by additional certification by a full-time salaried veterinary official of the agency in the national government that is responsible for the health of the animals within that country. Upon arrival of the meat of ruminants or swine or other animal product in the United States, the certification must be presented to an authorized inspector at the port of arrival. The certification must give the name and official establishment number of the establishment where the animals were slaughtered, and shall state that:

* * * * *

24. In § 94.12, the introductory text in paragraph (b), paragraph (b)(3), and newly redesignated footnote 11 would be revised to read as follows:

§ 94.12 Pork and pork products from countries where swine vesicular disease exists.

* * * * *

(b) No pork or pork product may be imported into the United States from any country where swine vesicular disease is considered to exist unless it complies with the following requirements and it is not otherwise prohibited importation under this part:

* * * * *

(3) In addition to the foreign meat inspection certificate required in § 327.4 of this title, pork or pork products prepared under paragraph (b)(1) (ii), (iii) or (iv) of this section shall be accompanied by certification that the provisions of paragraphs (b)(1)(ii), (b)(1)(iii)(A), or (b)(1)(iv)(B)(2) of this section have been met. The certification shall be issued by an official of the national government of the country of origin who is authorized to issue the foreign meat inspection certificate required by § 327.4 of this title.[11] Upon arrival of the pork or pork products in the United States, the certificate must be presented to an authorized inspector at the port of arrival.

25. In § 94.12, the first sentence in newly designated footnote number 12 would be revised to read:

[12] The names and addresses of approved establishments may be obtained from, and request for approval of any establishment may be made to the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Washington, DC 20250. * * *

26. In § 94.12, paragraph (b)(4), the reference to "Deputy Administrator, Veterinary Services," would be changed to read "Deputy Administrator".

27. In § 94.13, in the introductory text, the reference to "or which vesicular disease is considered to exist;" would be removed and the reference to "Part 327, Subchapter A, Chapter III of this title" would be changed to read "Part 327 of this title".

28. In § 94.13, paragraph (a) and the introductory text of paragraph (b) would be revised to read:

§ 94.13 Restrictions on importation of pork or pork products from specified countries.

* * * * *

(a) All such pork or pork products, except those treated in accordance with § 94.12(b)(1)(i) of this part, shall have been prepared only in inspected establishments that are eligible to have their products imported into the United States under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and under § 327.2 of this title and shall be accompanied by the foreign meat inspection certificate required by § 327.4 of this title. Upon arrival of the pork or pork products in the United States, the foreign meat inspection certificate must be presented to an authorized inspector at the port of arrival.

(b) Unless such pork or pork products are treated according to one of the procedures described in § 94.12(b) of this part, the pork or pork products must be accompanied by an additional certificate issued by a full-time salaried veterinary official of the agency in the national government responsible for the health of the animals within that country. Upon arrival of the pork or pork products in the United States, the certificate must be presented to an authorized inspector at the port of arrival. The certificate shall state the name and official establishment number of the establishment where the swine involved were slaughtered and the pork was processed. The certificate shall also state that:

* * * * *

29. In § 94.13, paragraph (b)(3), the reference to "94.13" would be changed to read "section".

30. Section 94.14 would be revised to read:

§ 94.14 Swine from countries where swine vesicular disease exists; importations prohibited.

(a) Swine vesicular disease is known to exist in all countries of the world

[11] The certification required may be placed on the certificate prescribed by § 327.4 or may be contained in a separate document.

[11] See footnote 11 in § 94.9 of this part.

except those listed in § 94.12(a) of this part. No swine which originate in or are moved from or transit any country in which swine vesicular disease is known to exist may be imported into the United States except wild swine imported in accordance with paragraph (b) of this section.

(b) Wild swine may be allowed importation by the Deputy Administrator upon request in specific cases under § 92.4(c) or § 92.2 of this chapter.

§ 94.16 [Amended]

31. In § 94.16, paragraph (b), the references to "Deputy Administrator, Veterinary Services" would be changed to read "Deputy Administrator" each time they appear.

32. In § 94.16, the first sentence in newly designated footnote 13 would be revised to read:

[13] The names and addresses of approved establishments or warehouses or information as to approved manner of processing, and request for approval of any such establishment, warehouse, or manner of processing may be made to the Deputy Administrator, Veterinary Services, United States Department of Agriculture, Hyattsville, Maryland 20782. * * *

§ 94.17 [Amended]

33. In § 94.17, the references to "Deputy Administrator, Veterinary Services," would be changed to "Deputy Administrator" each time they appear, and the reference to "(9 CFR 94.17)" would be removed.

Done in Washington, DC, this 8th day of September 1987.

B.G. Johnson,

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

[FR Doc. 87-20974 Filed 9-11-87; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87-ANM-19]

Proposed Establishment of Transition Area, Burlington, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a 700 foot transition area at Burlington, Colorado. The area is necessary to provide controlled airspace for aircraft executing a new instrument approach procedure at Kit Carson Airport.

DATES: Comments must be received on or before November 11, 1987.

ADDRESSES: Send comments on the proposal to: Manager, Airspace & System Management Branch, ANM-530, Federal Aviation Administration, Docket No. 87-ANM-19, 17900 Pacific Highway South, C-68966, Seattle, WA 98168.

The official docket may be examined in the Office of Regional Counsel at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Ted Melland, ANM-536, Federal Aviation Administration, Docket No. 87-ANM-19, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, Telephone: (206) 431-2536.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-ANM-19". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking any action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace & System Management Branch, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to provide controlled airspace around the Kit Carson Airport. The area will be shown on aeronautical charts enabling pilots to circumnavigate the area or otherwise comply with instrument flight rules during instrument flight conditions.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 1348(a), 1354(a), 151C; EO 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Burlington, CO, (New)

That airspace extending upward from 700 feet above the surface within a 12 mile radius of the Kit Carson County Airport (lat. 39°14'27" N., long. 102°17'08" W.).

Issued in Seattle, Washington, on August 19, 1987.

Temple H. Johnson, Jr.

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 87-21009 Filed 9-11-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 87-AWP-30]

Revision to Window Rock, AZ, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the description of the Window Rock, AZ., transition area. The revision will increase the size of the 700 foot transition area southwest of the Window Rock Airport and will provide controlled airspace for a new instrument approach procedure to the airport. The procedure will be a random area navigation approach to Runway 02 (RNAV RWY 02).

DATES: Comments must be received on or before October 20, 1987.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, AWP-530, Docket No. 87-AWP-30, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Regional Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6W14, 15000 Aviation Boulevard, Lawndale, California.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace and Procedures Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Frank T. Torikai, Airspace and Procedures Specialist, Airspace and Procedures Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (213) 297-1648.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-AWP-30." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Airspace and Procedures Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace and Procedures Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revise the description of the Window Rock, AZ, transition area. This revision will increase the size of the 700 foot transition area southwest of the Window Rock Airport and provide controlled airspace for a new RNAV RWY 02 instrument approach to the Window Rock Airport. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

2. Section 71.181 is amended as follows:

Window Rock, AZ. [Revised]

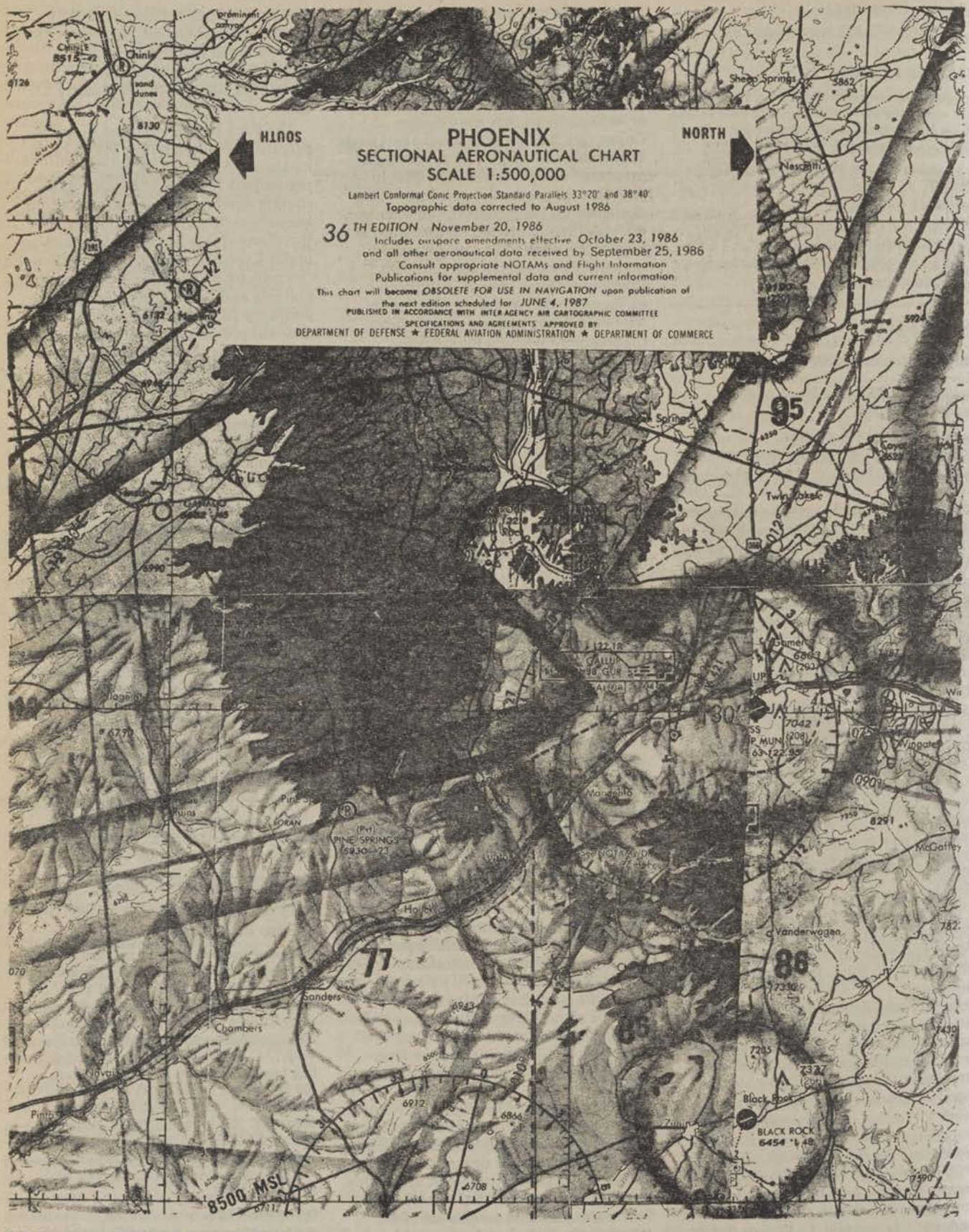
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Window Rock Airport (lat. 35°39'08" N., long. 109°04'00" W.); within 3 miles each side of the Gallup VORTAC 318° radial, extending from the 5-mile radius area to the Gallup VORTAC; and within an area bounded by a ling beginning at lat. 35°38'27" N., long. 109°06'35" W., to lat. 35°31'07" N., long. 108°58'32" N., to lat. 35°27'13" N., long. 109°04'34" W., to lat. 35°25'26" N., long. 109°14'05" W., to lat. 35°31'35" N., long. 109°10'58" W., to the point of beginning.

Issued in Los Angeles, California, on August 24, 1987.

James Holweger,

Assistant Manager, Air Traffic Division.

BILLING CODE 4910-13-M



[FR Doc. 87-20753 Filed 9-11-87; 8:45 am]

BILLING CODE 4910-13-C

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

[Docket No. 70504-7104]

Annual Survey of U.S. Direct Investment Aboard (BE-11)

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice sets forth proposed rules for the BE-11, Annual Survey of U.S. Direct Investment Abroad, conducted by the Bureau of Economic Analysis, U.S. Department of Commerce, under authority of the International Investment and Trade in Services Survey Act. Specifically, the proposed rules change the reporting requirements on Form BE-11C of the survey to: (1) Require filing of a complete BE-11C report for nonbank foreign affiliates owned at least 20 percent, but less than 25 percent, by the U.S. Reporter and for which total assets, sales, or net income exceed $10 million, and (2) *for fiscal year 1987 only*, require filing of a partial BE-11C report for nonbank foreign affiliates owned at least 10 percent, but less than 20 percent, by the U.S. Reporter and for which total assets, sales, or net income exceed $100 million. For the former affiliates, a Form BE-11C with all seven data items completed would be required each year; for the latter affiliates, a Form BE-11C with only three items—that is, assets, sales, and net income—completed would be required but only for fiscal year 1987. Previously, all foreign affiliates owned less than 25 percent were exempt from being reported in the BE-11 survey. Some reporting by 10-to-25-percent-owned affiliates is needed because of the Bureau's inability to provide reliable estimates for the universe of all foreign affiliates without at least some information on affiliates owned between 10 and 25 percent.

DATE: Comments on the proposed rule will receive consideration if submitted in writing on or before October 14, 1987.

ADDRESS: Comments may be mailed to the Office of the Chief, International Investment Division (BE-50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230, or hand delivered to Room 608, Tower Building, 1401 K Street, NW., Washington, DC 20005. Comments received will be available for public inspection in Room 608, Tower Building between 8:00 a.m. and 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Betty Barker, Acting Chief, International Investment Division (BE-50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 523-0659.

SUPPLEMENTARY INFORMATION:

Background

The BE-11, Annual Survey of U.S. Direct Investment Abroad, is a mandatory survey, conducted pursuant to the International Investment and Trade in Services Survey Act (Pub. L. 94-472, 90 Stat. 2059, 22 U.S.C. 3101-3108, as amended by section 306 of Pub. L. 98-573). It provides annual time series on important aspects of the operations of U.S. multinational companies, including data on their services activities and international services transactions. The survey covers a sample of nonbank U.S. parent companies and their nonbank foreign affiliates; the sample data are used to generate universe estimates of data for parents and affiliates for years in which benchmark surveys, or censuses, of U.S. direct investment abroad are not conducted.

The BE-11 survey contains three forms—the BE-11A, which covers the U.S. Reporter; the BE-11B, which covers majority-owned foreign affiliates; and the BE-11C, which covers minority-owned foreign affiliates. This proposed rule would alter the reporting requirements for the BE-11C form.

When the first BE-11 survey, convering 1983, was approved by the Office of Management and Budget (OMB), one of the conditions for approval was that the BE-11C form be limited only to those minority-owned nonbank foreign affiliates that were owned 25 percent or more, directly or indirectly, by the U.S. Reporter, but not more than 50 percent by all U.S. Reporters of the affiliate combined, and whose assets, sales, or net income exceeded $10 million. Elimination of reporting on the BE-11C for affiliates owned less than 25 percent was ordered by OMB to reduce the reporting burden on U.S. businesses.

U.S. direct investment abroad, however, is defined to include all foreign business enterprises owned *10* (not *25*) percent or more, directly or indirectly, by a U.S. person. In preparing estimates for the universe of all nonbank foreign affiliates based on the annual survey data, the Bureau of Economic Analysis (BEA) has thus lacked the information needed to make reliable estimates for affiliates owned at least 10 percent, but less than 25 percent. Although the percentage of U.S. ownership is low, some of these affiliates are very large. In 1982, the last year for which information is available, these affiliates accounted for about 8 percent of the nonbank affiliate universe in terms of assets. Their shares of assets were much larger in some individual countries. For example, in 1982, they accounted for 28 percent and 17 percent, respectively, of the total assets of all affiliates in India and Japan, countries that restrict majority ownership by foreigners. Other countries where their shares exceeded 15 percent were Venezuela, Austria, France, Greece, Turkey, Israel, and New Zealand.

In an attempt to obtain the data needed to produce reliable universe estimates. BEA is proposing to alter the reporting requirements on the BE-11C form to (1) require filing of a complete BE-11C report for nonbank affiliates owned at least 20 percent, but less than 25 percent, directly or indirectly, by the U.S. Reporter and for which anyone of the exemption level items (i.e., total assets, sales or gross operating revenues, or net income) exceeds $10 million, positive or negative, and (2) *for fiscal year 1987 only*, require filing of a partial BE-11C report for nonbank affiliates owned at least 10 percent, but less than 20 percent, directly or indirectly, by the U.S. Reporter and for which any one of the three exemption level items exceeds $100 million, positive or negative. For the former affiliates, all seven data items on the form must be completed each year; for the latter, only three items—assets, sales, and net income—must be completed, and only for fiscal year 1987. The new rule, if approved, would be effective with the BE-11 survey covering 1987.

Based on data from BEA's 1982 benchmark survey of U.S. direct investment abroad, it is estimated that, under the proposed rules, about 65 nonbank U.S. Reporters would have to file complete BE-11C reports each year for about 140 nonbank foreign affiliates owned at least 20 percent, but less than 25 percent, with assets, sales, or net income exceeding $10 million. In addition, for fiscal year 1987 only, about 25 nonbank U.S. Reporters would have to file partial BE-11C reports for about 60 nonbank foreign affiliates owned at least 10 percent, but less than 20 percent, with assets, sales, or net income exceeding $100 million.

Executive Order 12291

BEA has determined that this proposed rule is not "major" as defined in E.O. 12291 because it is not likely to result in:

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

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

Executive Order 12291

BEA has determined that this proposed rule is not "major" as defined in E.O. 12291 because it is not likely to result in:

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

(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.

Paperwork Reduction Act

This proposed rule contains collection of information requirements subject to the Paperwork Reduction Act. Current OMB approval of the collection of information requirements for the BE–11 survey (OMB No. 0608–0053) expired July 31, 1987. A request to continue the collection of this information, with the change in reporting requirements for the BE–11C form, has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act.

Comments regarding these collection of information requirements may be directed to the office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Bureau of Economic Analysis, Washington, DC 20503.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to preparation of an initial regulatory flexibility analysis are not applicable to this proposed rulemaking because it will not have a significant economic impact on a substantial number of small entities. the $10 million exemption level below which reporting of 20-to-25 percent-owned affiliates is not required on the BE–11C form, and the $100 million level below which reporting of 10-to-20 percent-owned affiliates is not required for fiscal year 1987, exclude small businesses from being reported.

Accordingly, the General Counsel, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the proposed rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 15 CFR Part 806

Economic statistics, U.S. investment abroad, Penalties, Reporting and recordkeeping requirements.

Dated: September 14, 1987.

Allan H. Young,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, BEA proposes to amend 15 CFR Part 806 as follows:

PART 806—[AMENDED]

1. The authority citation for 15 CFR Part 806 continues to read as follows:

Authority: 5 U.S.C. 301, 22 U.S.C. 3101–3108, and E.O. 11961, as amended.

2. In § 806.14, paragraphs (f)(3)(iii) and (f)(3)(iv)(B) are revised; paragraphs (f)(3)(iv)(C) and (D) are redesignated (f)(3)(iv)(D) and (E), respectively; and new paragraphs (f)(3)(iv)(C) and (F)(3)(v) are added to read as follows:

§ 806.14 U.S. direct investment abroad.

* * * * *

(f) * * *

(3) * * *

(iii) A complete Form BE–11C (Report for Minority-owned Foreign Affiliate), including all seven data items on the form, must be filed for each minority-owned nonbank foreign affiliate that is owned at least 20 percent, directly or indirectly, by the U.S. Reporter but not more than 50 percent by all U.S. Reporters of the affiliate combined, and for which any *one* of the exemption level items exceeds $10 million. In addition, *for the report covering fiscal year 1987 only*, a partial BE–11C, including only three data items (that is, total assets, sales or gross operating revenues, and net income), must be filed for each minority-owned nonbank foreign affiliate that is owned at least 10 percent, but less than 20 percent, directly or indirectly, by the U.S. Reporter and for which any *one* of the exemption level items exceeds $100 million.

(iv) * * *

(B) *For fiscal year 1987 only*, it is less than 20 percent owned, directly or indirectly, by the U.S. person and none of its exemption level items exceeds $100 million.

(C) For fiscal years other than 1987, it is less than 20 percent owned, directly or indirectly, by the U.S. person.

(D) Its U.S. parent (U.S. Reporter) is a bank.

(E) It is itself a bank.

(v) Notwithstanding the above, an affiliate holding an equity interest in another affiliate that must be reported on Form BE–11B or C must also be reported on Form BE–11B (if majority owned) or C (if minority owned), regardless of the value of its assets, sales, or net income. That is, all affiliates upward in the chain of ownership must be reported.

[FR Doc. 87–21049 Filed 9–11–87; 8:45 am]

BILLING CODE 3510–06–M

Coast Guard

33 CFR Part 117

[CGD5–87–063]

Drawbridge Operation Regulations; Pocomoke River, MD

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the requests of the Maryland Department of Transportation and CONRAIL, the Coast Guard is considering amending the regulations governing the operation of the Route 675 highway drawbridge across the Pocomoke River, mile 15.6, and adding new regulations for the railroad swing bridge across the Pocomoke River, mile 15.2, at Pocomoke City, Maryland. The proposal would require five hours advance notice for bridge openings from October 1 to March 31. This eliminates the need to have a person constantly available to open the draws during a time of year when few vessels transit the river. It should provide for the reasonable needs of navigation.

DATE: Comments must be received on or before October 29, 1987.

ADDRESSES: Comments should be mailed to Commander (oan), 431 Crawford Street, Fifth Coast Guard District, Portsmouth, Virginia 23704–5004. The comments and other materials referenced in this notice will be available for inspection and copying at 431 Crawforth Street, Room 609, Portsmouth, Virginia. Normal office hours are between 8:00 a.m. and 4:30 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, (804) 398–6222.

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

The Commander, Fifth 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

In July 1982, the State Highway Administration for Maryland asked the DELMARVA Water Transport Committee, Inc. to conduct an informal survey of drawbridge openings for the bridge on Route 675, mile 15.6, over the Pocomoke River. The survey showed few openings during the winter months. The Maryland Department of Transportation requested that vessels give five hours advance notice for openings between October 1 to March 31.

CONRAIL submitted a similar request for the railroad bridge at mile 15.2 over the Pocomoke River. The bridge is currently left open from October 1 to March 31. It is closed for the two daily train crossings (one train in each direction). Since there are fewer openings for vessels than closures for trains, it would be more cost effective to provide a drawtender for the infrequent openings rather than provide the bridgetender to close the bridge for the daily rail crossings during the winter months.

Commercial vessel operations, who have been contacted informally, have not objected to the proposal.

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 this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. Because of the infrequent bridge openings during the winter months the economic impact should be very minimal. 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—[AMENDED]

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 117.569 is revised to read as follows:

§ 117.569 Pocomoke River.

(a) The CONRAIL railroad bridge, mile 15.2, at Pocomoke City, shall open on signal, except between October 1 and March 31 the draw must open only if at least five hours advance notice is given.

(b) The draw of the Route 675 bridge, mile 15.6 at Pocomoke City, shall open on signal, except between October 1 and March 31 the draw must open only if at least five hours advance notice is given.

(c) The draw of the 512 bridge, mile 29.9 at Snow Hill, shall open on signal if at least five hours advance notice is given.

Dated: August 18, 1987.

R.M. Polant,

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

[FR Doc. 87–21098 Filed 9–11–87; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD13 87–06]

Security Zone; Hood Canal, WA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering a proposal to establish a security zone in the waters of Hood Canal immediately adjacent to the Naval Submarine Base Bangor, Washington. This action is necessary to safeguard U.S. Naval vessels from sabotage or other subversive acts, accidents, or other incidents of a similar nature while they are moored at the Submarine Base. This security zone will provide protection to these vessels by prohibiting access to the waters around the Submarine Base except by certain authorized vessels, and by providing a sufficient area in which to detect unauthorized intrusions in time to allow appropriate security measures to be taken.

DATE: Comments must be received on or before October 29, 1987.

ADDRESSES: Comments should be mailed to Commander (mps), Thirteenth Coast Guard District, Federal Building, 915 Second Avenue, Seattle, WA, 98174. The comments and other materials referenced in this notice will be available for inspection and copying at this address. Normal office hours are between 8:00 a.m. and 4:00 p.m., Monday through Friday, except holidays. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: Capt H. H. Dudley, (206) 442–5537.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD13 87–06) and specific section of the proposal to which their comments apply, and give reasons for each comment, receipt of comments will be acknowledged if a stamped self addressed postcard or envelope is enclosed. The regulations may be changed in light of comments received. 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 if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are CAPT H. H. Dudley, Project Officer, Port and Vessel Safety Branch Thirteenth Coast Guard District, and Lieutenant A. W. Bogle, Project Attorney, Legal Office, Thirteenth Coast Guard District.

Discussion of Proposed Regulations

After a review of Naval Submarine Base Bangor physical security, the Commanding Officer, Naval Submarine Base Bangor requested that the Coast Guard Captain of the Port, Puget Sound establish a security zone which would be essentially conterminous with an existing restricted zone established by the U.S. Army Corps of Engineers at 33 CFR 207.750(e). The boundaries of the proposed security zone are identical to those of the restricted area except at the southern end of the security zone. At this point the security zone extends for an additional 110 yards from latitude 47°43'24" N., longitude 122°44'37" W. to latitude 47°43'28" N., longitude 122°44'40" W. This change permits the shoreside boundary of the security zone to coincide with the Submarine Base property line at its southern boundary. The Coast Guard has concluded that a security zone is warranted and appropriate, because the security zone is

intended for the protection of assets which are vital to the national interest. It is undeniable that vessels moored at the Submarine Base can easily be approached from the water and are vulnerable to acts of sabotage. Prohibiting access to the water areas around the Submarine Base provides a means of countering this without unnecessarily interfering with the public's use of this waterway.

The requested security zone keeps unauthorized persons sufficiently clear of the vessels at the Submarine Base, allows early detection of unauthorized entry, and does not interfere with navigation using the Hood Canal for through passage. This security zone will be limited to water areas only. Present laws and regulation give the Commanding Officer, Naval Submarine Base sufficient authority to restrict access onto the Base from land access routes and to deal with unauthorized persons within the Base.

This proposal would exempt certain clearly defined classes or categories of vessels from some or all of the restrictions imposed by the security zone. Such exemptions have been granted where the Captain of the Port and Commanding Officer, Naval Submarine Base Bangor have agreed that access to the Submarine Base does not pose a threat to the safety or security of the Submarine Base and is in the National interest. (Individuals aboard exempted vessels also may enter the security zone without the permission of the Captain of the Port.)

Other vessels and individuals who desire to enter the security zone will be required to request and receive authority to enter the security zone from the Captain of the Port Puget Sound via the Security Office of the Naval Submarine Base at Bangor, WA.

This proposal preserves the Coast Guard's existing authority to control the movement of vessels and individuals on the waters subject to the jurisdiction of the United States, including those vessels and individuals that are permitted to enter or remain within the security zone without the specific permission of the Captain of the Port. This authority is restricted by law to actions taken to prevent injury to vessels, waterfront facilities, or the waters of the United States, or to secure the observance of the rights and obligations of the United States. The reservation of this authority is necessary to ensure that the Coast Guard has the ability to take prompt and adequate enforcement action within the security zone if a threat to the national security or the safety of any vessel arises. The reservation of this authority is not intended to, and should not, obstruct or hinder the ability of Commanding Officer, Naval Submarine Base Bangor to conduct operations at the Base. The authority of the Coast Guard that has been reserved by this proposal is no greater than the authority the Coast Guard has over vessels and individuals at other waterfront facilities, including commercial shipyard and dock facilities.

The Coast Guard understands that there are commercial fishermen who have fished these waters under contract with the Navy. We anticipate that the Captain of the Port will grant permission for these individuals to enter the security zone during those periods when they hold valid licenses to take shellfish or other forms of marine life from the Hood Canal at that location, if upon review by the U.S. Navy it is determined that these individuals do not pose a security risk to the United States.

At the present time, there are no intentions to require the use of Port Security Cards or other special credentials for vessels authorized to operate in the security zone, other than the certificate of exemption required for vessels operating in the security zone on the basis of a temporary exemption issued pursuant to the regulation.

This regulation is issued pursuant to 50 U.S.C. 191 as set out in the authority citation for all of Part 165.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. Except for the small additional area added to allow the land boundary of Submarine Base and the southern boundary of the security zone to coincide, the area affected by this security zone is already restricted to navigation by the existing restricted zone. Even in the absence of this restricted zone, those interests affected would be primarily recreational, and the loss of the use of this part of the canal should not affect their use of the canal for navigation or other purposes except in a very minor way.

Since the 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 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 165 of Title 33, Code of Federal Regulations as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5

2. Section 165.1302 is added to read as follows:

§ 165.1302 Bangor Naval Submarine Base, Bangor, WA

(a) *Location.* The following is a security zone: The waters of the Hood Canal encompassed by a line commencing on the east shore of Hood Canal at latitude 47°43'24" N, longitude 122°44'37" W, thence to latitude, 47°43'28" N, longitude 122°44'40" W; thence to latitude, 47°43'50" N, longitude 122°44'40" W; thence to latitude, 47°44'24" N, longitude 122°44'22" W; thence to latitude, 47°45'47" N, longitude 122°43'22" W; thence to latitude, 47°46'23" N, longitude 122°42'42" W; thence to latitude, 47°46'23" N, longitude 122°42'20" W; thence to 125° true to the high tide line; thence southerly along the shoreline to the point of beginning.

(b) *Security zone anchorage.* The following is a security zone anchorage: Area No. 2. Waters of Hood Canal within a circle of 1,000 yards diameter centered on a point located at latitude 47°46'26" N, longitude 122°42'49" W.

(c) *Special Regulations.* (1) Section 165.33 paragraphs (a), (e), and (f) do not apply to the following vessels or individuals on board those vessels:

(i) Public vessels of the United States, other than United States Naval vessels.

(ii) Vessels that are performing work at Naval Submarine Base Bangor pursuant to a contract with the United States Navy which requires their presence in the security zone.

(iii) Any other vessel or class of vessels mutually agreed upon in advance by the Captain of the Port and Commanding Officer, Naval Submarine Base Bangor. Vessels operating in the security zone under this exemption must have previously obtained a copy of a certificate of exemption permitting their operation in the security zone from the Security Office, Naval Submarine Base Bangor. This written exemption shall

state the date(s) on which it is effective and may contain any further restrictions on vessel operations within the security zone as have been previously agreed upon by the Captain of the Port and Commanding Officer, Naval Submarine Base Bangor. The certificate of exemption shall be maintained on board the exempted vessel so long as such vessel is operating in the security zone.

(2) Any vessel authorized to enter or remain in the security zone may anchor in the security zone anchorage.

(3) Other vessels desiring access to this zone shall secure permission from the Captain of the Port through the Security Office of the Naval Submarine Base Bangor. The request shall be forwarded in a timely manner to the Captain of the Port by the appropriate Navy official.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and monitoring of this security zone by the U.S. Navy.

Dated: September 2, 1987.

T.J. Wojnar,

Rear Admiral, U.S. Coast Guard, Commander Thirteenth Coast Guard District.

[FR Doc. 87-21099 Filed 9-11-87; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Parts 302, 303, and 305

Child Support Enforcement Program; Prohibition of Retroactive Modification of Child Support Arrearages

AGENCY: Office of Child Support Enforcement, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule implements section 9103 of Pub. L. 99-509, the Omnibus Budget Reconciliation Act of 1986, which amends section 466(a) of the Social Security Act (the Act), effective.October 21, 1986. Section 9103 requires that, as a condition of State IV-D plan approval, States have in effect laws requiring the use of procedures to prohibit retroactive modification of child support arrearages. However, such procedures may permit modification with respect to any period during which there is pending a petition for modification, but only from the date that notice has been given, either directly or through the appropriate agent, to the obligee (or where the petitioner is the obligee) to the obligor. Specifically, State IV-D agencies must have in effect and use procedures whereby any payment or installment of support under any child support order is, on and after the date it is due, a judgment by operation of law, with the full force, effect, and attributes of a judgment of the State and is entitled, as such, to full faith and credit in such State and in any other State.

While the effective date of this statute is October 21, 1986, under section 9103(b)(2) of Pub. L. 99-509, if a State demonstrates to the Secretary, HHS, that State legislation is required to conform the State IV-D plan to the requirements of this statute, a delay based on the need for legislation may be granted. In such a case, the State's plan would not be regarded as failing to comply solely by reason of its failure to meet the requirements imposed by the new amendments until the beginning of the fourth month beginning after the end of the first session of the State's legislature which ends on or after October 21, 1986.

DATES: Consideration will be given to comments received by November 13, 1987.

ADDRESS: Address comments to: Director, Office of Child Support Enforcement, Family Support Administration, Department of Health and Human Services, Room 2090, Switzer Building, 330 C Street SW., Washington, DC 20201, Attention: Director, Policy and Planning Division. Comments will be available for public inspection Monday through Friday, 8:30 a.m. to 5:00 p.m., in Room 2090 of the Department's office at the above address.

FOR FURTHER INFORMATION CONTACT: Susan Corriveau, Policy Branch, OCSE (202) 245-1978.

SUPPLEMENTARY INFORMATION:

Background

Section 9103 of Pub. L. 99-509 is a result of Congress' recognition of the disparity among States regarding the modification of child support arrearages. Although most States permit child support orders to be modified only prospectively, thus affecting only future child support payments, some States allow child support awards to be modified retroactively. In such States, the court or administrative entity has the authority to reduce or nullify arrearages by reducing the amounts owed for past periods.

Prior to enactment of section 9103 of Pub. L. 99-509, 18 States permitted child support orders to be modified retroactively. The vast majority of such retroactive modifications had the effect of reducing the amount of child support ordered. Thus, for example, an order for $200 a month for child support, which was unpaid for 36 months should accumulate an arrearage of $7,200. Yet, if the obligor was brought to court, having made no prior attempt to modify the order, the order might be reduced to $100 a month retroactive to 36 months prior to the date of modification. This has the effect of reducing the arrearage from $7,200 to $3,600. The order is reduced without placing any diligence requirement on the absent parent to petition in a timely manner to reduce the order, if for some reason circumstances change.

It further permits arguments to be made about changed circumstances in prior periods at a time when evidence may not be abundant or clear.

In interstate cases involving registration of out of State orders, where the absent parent resides in a State different from the one where his or her children reside or where the child support order was entered, the problem may be exacerbated by the fact that the custodial parent usually is not present when the case is heard in the absent parent's State and is unable to testify about any claimed past change in circumstances.

In addition to the 18 States which prior to enactment of Pub. L. 99-509 permitted retroactive modification of orders, 17 other States did not meet the requirement of reducing to final judgment amounts of child support ordered as the payments become due. Because Pub. L. 99-509 requires that child support payments be judgments as they become due, they are entitled to full faith and credit and may be registered and enforced in any State.

In light of this situation, section 9103 added a new requirement to section 466(a) of the Act which States must meet in order to have an approved title IV-D State Plan. Specifically, under section 466(a)(9), States must have in effect laws requiring the use of procedures under which any payment or installment on a child support order is a judgment, on and after the date each payment is due, and retroactive modification of child support orders is prohibited with the following exception. Modification may be permitted with respect to any period during which there is pending a petition for modification, but only from the date that notice of such petition has been given, either directly or through the appropriate agent, to the obligee or (where the obligee is the petitioner) to the obligor.

In the past, when a custodial parent or absent parent moves out of the State where a support obligation has been established, the IV-D agency often

would enforce the order using the Uniform Reciprocal Enforcement of Support Act, (URESA). Using URESA is time consuming and frustrating for the custodial parent owed a support obligation. Under URESA, the absent parent has the opportunity to allege inability to pay the established support amount, which may result in a lower support order. Under the new requirement specified by section 9103, all child support orders in a State, including orders entered before October 21, 1986, can now be enforced by any other State without creating a new child support order. Such a provision will ensure that the processing of interstate cases will be less time consuming and less costly because new child support orders will not have to be created and collections will increase because accumulated arrearage debts will stay intact and not be reduced or forgiven. Specific remedies to enforce these judgments shall be determined by the State, pursuant to State law.

This new statute adds a ninth mandatory requirement to section 466(a) of the Act which requires States to have in effect laws requiring the use of certain procedures to increase the effectiveness of their child support enforcement programs in order to have an approved Title IV–D State plan. These mandatory requirements are:

(1) Procedures for carrying out a program of withholding under which new or existing support orders are subject to the State law governing withholding so that a portion of the absent parent's wages may be withheld.

(2) Expedited processes to establish and enforce child support obligations.

(3) Procedures for obtaining overdue support from State income tax refunds on behalf of recipients of aid under the State's title IV–A or IV–E plan.

(4) Procedures for the imposition of liens against the real and personal property of absent parents who owe overdue support.

(5) Procedures for the establishment of paternity at least until the child's 18th birthday

(6) Procedures which require that an absent parent give security or post a bond or some other guarantee to secure payment of support

(7) Procedures for making information regarding the amount of overdue support owed by an absent parent available to consumer reporting agencies.

(8) Procedures under which all child support orders which are issued or modified in the State will include provision for withholding from wages.

(9) Procedures which require that any payment or installment of support under any child support order, whether ordered through the State judicial system or through the expedited processes required by paragraph (2), is (on and after the date it is due):

(A) A judgment by operation of law, with the full force, effect, and attributes of a judgment of the State, including the ability to be enforced;

(B) entitled as a judgment to full faith and credit in such State and in any other State; and

(C) not subject to retroactive modification by such State or by any other State.

However, such procedures may permit modification with respect to any period during which there is pending a petition for modification, but only from the date that notice has been given, either directly or through the appropriate agent, to the obligee (or where the obligee is the petitioner) to the obligor.

While the effective date of this statute is October 21, 1986, under section 9103(b)(2) of Pub. L. 99–509, if a State demonstrates to the Secretary, HHS, that State legislation is required to conform the State IV–D plan to the requirements of the statute, a delay in implementation based on the need for legislation may be granted. In such a case, the State's IV–D plan would not be regarded as failing to comply with the requirements imposed by the new amendment until the beginning of the fourth month beginning after the end of the first session of the State's legislature which ends on or after October 21, 1986.

Statutory Authority

This proposed rule is published under the authority of section 1102 of the Social Security Act (the Act) which requires the Secretary to publish regulations that may be necessary for the efficient administration of the functions for which he is responsible under the Act.

Section 466 of the Act requires that States have in effect and use certain mandatory provisions. Section 9103 of Pub. L. 99–509 added a new paragraph (9) under section 466(a) which requires that States have in effect laws requiring the use of procedures which provide that any payment or installment of support under any child support order is a judgment, entitled to full faith and credit, and not subject to retroactive modification.

Regulatory Provisions

This proposed regulation revises § 302.70(a) to specify that the effective date for paragraphs (1) through (8) is October 1, 1985 and for paragraph (9) is October 21, 1986.

In addition, this regulation would add a new paragraph (9) under § 302.70(a) to require that any payment or installment of support under any child support order is, on and after the date it is due, a judgment, and may not be modified retroactively.

This regulation would also amend 45 CFR Part 303 to add a new § 303.106 entitled, Procedures to prohibit retroactive modification of child support arrearages. Paragraph (a) of this section would require States to have in effect and use procedures which provide that any payment of child support, on and after the date it is due, be a judgment, by operation of law. This requirement would provide that the child support installment must become a judgment without the need for any action by any entity; it becomes a judgment simply by a payment falling due.

Paragraph (a)(2) of § 303.106 would require that the judgment be entitled to full faith and credit in the originating State and in any other State. Full faith and credit is a Constitutional principle which provides that the various States must recognize the judgments of the other States within the United States.

Paragraph (a)(3) would state that the judgment is not subject to retroactive modification, except as provided under paragraph (b) of this section. The intent of this requirement is to prohibit courts or administrative entities from forgiving or reducing arrearages.

Paragraph (b) provides for the exception referred to in paragraph (a)(3) that will permit limited retroactive modification of child support orders. The first condition is that modification may be permitted for any period during which there is pending a petition for modification. The second condition requires that the modification may only be permitted from the date that notice of such petition has been given, either directly or through the appropriate agent to the obligee or (where the obligee is the petitioner) to the obligor.

This regulation would also amend the audit regulation by adding a new § 305.57 entitled Retroactive modification of child support arrearages. This audit criterion would provide that, in order to meet the requirements of title IV–D, the State must have laws in effect and be using procedures which require that any payment or installment of support under any child support order is, on and after the date it is due, a judgment, and may not be modified retroactively.

Paperwork Reduction Act

This proposed rule at 45 CFR 302.70(a)(9), 303.106, and 305.57 contains information collection requirements which are subject to OMB review under the Paperwork Reduction Act of 1980 (Pub. L. 96–511). As required by section 3504(h) of Pub. L. 96–511, we have submitted a copy of this proposed rule to OMB for its review of the information collection requirements listed above. Other organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official. designated for this purpose whose name appears in this preamble, and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3208), Washington, DC 20503, attention: Desk Officer for HHS.

Regulatory Impact Analysis

The Secretary has determined, in accordance with executive Order 12291 that this rule does not constitute a "major" rule for the following reasons:

(1) The annual effect on the economy is less than $100 million;

(2) This rule will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and

(3) This rule will not result in significant adverse effects 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.

Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), we are required to prepare a regulatory flexibility analysis for those rules which will have a significant economic impact on a substantial number of small entities. Its principle impact is on State IV–D agencies who will be required to expend minimal effort, and on the judicial system. This provision could potentially save money for both the Federal Government and the States by increasing amounts available for collection. Further, the cost of interstate enforcement activities will be reduced by eliminating the need to obtain a child support order in more than one State. Therefore, a regulatory flexibility analysis is not required.

(Catalog of Federal Domestic Assistance Program No. 13.783, Child Support Enforcement Program)

Dated: July 17, 1987.

Wayne A. Stanton,

Director, Office of Child Support Enforcement.

Approved: July 31, 1987.

Otis R. Brown,

Secretary.

List of Subjects

45 CFR Part 302

Child support, Grant programs, Social programs, Penalties, Reporting and recordkeeping requirements, Unemployment compensation.

45 CFR Part 303

Child support, Grant programs, Social programs, Reporting and recordkeeping requirements.

45 CFR Part 305

Accounting, Child support, Grant programs, Social programs, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, Title 45, Chapter III of the Code of Federal Regulations is amended as follows:

PART 302—[AMENDED]

1. The authority citation for Part 302 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p) and 1396(k).

2. Section 302.70 is amended by revising paragraph (a) introductory text; removing the word "and" at the end of paragraph (a)(7); removing the period at the end of paragraph (a)(8) and inserting "; and" in its place; and, adding paragraph (a)(9) to read as follows:

§ 302.70 Required State laws.

(a) *Required laws.* Effective October 1, 1985, with respect to paragraphs 1 through 8, and effective October 21, 1986, with respect to paragraph 9, the State plan shall provide that, in accordance with sections 454(20) and 466 of the Act, the State has in effect laws providing for and has implemented the following procedures to improve program effectiveness:

* * * * *

(9) Procedures which require that any payment or installment of support under any child support order, whether ordered through the State judicial system or through the expedited processes required by paragraph (a)(2) of this section, is (on and after the date it is due):

(i) A judgment by operation of law with the full force, effect, and attributes of a judgment of the State, including the ability to be enforced;

(ii) Entitled as a judgment to full faith and credit in such State and in any other State; and

(iii) Not subject to retroactive modification by such State or by any other State, except as provided in § 303.106 paragraph (b).

* * * * *

PART 303—[AMENDED]

3. The authority citation for Part 303 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p) and 1396(k).

4. Part 303 is amended by adding § 303.106 to read as follows:

§ 303.106 Procedures to prohibit retroactive modification of child support arrearages.

(a) The State shall have in effect and use procedures which require that any payment or installment of support under any child support order is, on and after the date it is due:

(1) A judgment by operation of law, with the full force, effect, and attributes of a judgment of the State, including the ability to be enforced;

(2) Entitled as a judgment to full faith and credit in such State or in any other State; and

(3) Not subject to retroactive modification by such State or by any other State except as provided in paragraph (b) of this section.

(b) The procedures referred to in paragraph (a)(3) may permit modification with respect to any period during which there is pending a petition for modification, but only from the date that notice of such petition has been given, either directly or through the appropriate agent, to the obligee or (where the obligee is the petitioner) to the obligor.

PART 305—[AMENDED]

5. The authority citation for Part 305 continues to read as follows:

Authority: 42 U.S.C. 603(h), 604(d), 652(a)(1) and (4), and 1302.

6. Part 305 is amended by adding § 305.57 to read as follows:

§ 305.57 Retroactive modification of child support arrearages.

For the purposes of this part, in order to be found in compliance with the State plan requirement to prohibit the retroactive modification of child support arrearages (45 CFR 302.70(a)(9)), a State must have in effect laws which provide

that any payment or installment under any child support order is, on and after the date it is due, a judgment and procedures which prohibit retroactive modification of child support arrearages as provided in 45 CFR 303.106 of this chapter.

[FR Doc. 87-20971 Filed 9-11-87; 8:45 am]
BILLING CODE 4150-04-M

DEPARTMENT OF DEFENSE

Department of the Air Force

48 CFR Ch. 53

Air Force System Command Federal Acquisition Regulation Supplement; Contracting by Negotiation

AGENCY: Department of the Air Force, DOD.

ACTION: Proposed rule.

SUMMARY: The Air Force proposes to amend Chapter 53 of Title 48 of the Code of Federal Regulations by adding the Air Force System Command (AFSC) Federal Acquisition Regulation as Appendix B, consisting of Parts AFSC 5315 and AFSC 5352. The AFSC implements and supplements the Department of the Air Force Federal Regulation Supplement, the Department of Defense Federal Acquisition Regulation Supplement and the Federal Acquisition Regulation.

DATE: Comments must be submitted in writing on or before October 14, 1987, to be considered in the formulation of the final rule. Please cite AFSC Case No. 87-01 in all correspondence related to this issue.

ADDRESS: Interested parties should submit written comments ot HQ AFSC/PKCP, Andrews AFB MD 20334-5000.

FOR FURTHER INFORMATION CONTACT: Capt Brian Koechel, HQ AFSC/PKCP, telephone (301) 981-4022.

SUPPLEMENTARY INFORMATION:

A. Background

Numerous studies have shown that an aggressive work measurement system can increase direct manufacturing labor productivity in contractor facilities by 10 to 30 percent, resulting in an overall five percent reduction in major weapon system acquisition costs. MIL-STD 1567A is an essential tool in DOD's cost reduction efforts. When applied effectively, discipline in contractor work measurement systems is increased, resulting in improved productivity and efficiency. Application of MIL-STD-1567A also ensures government visibility into contractor performance. A major benefit of work measurement systems is that it provides a better foundation for pricing and negotiation. This proposed rule provides to Air Force System Command (AFSC) activities in implementation of MIL-STD-1567A on AFSC contracts supporting major weapon systems programs.

B. Regulatory Flexibility Act

The proposed addition of section AFSC 5315.892 is not expected to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) became work measurement is required for contractors: (1) Having a significant volume of government business; (2) who are under government inplant contract administration; and (3) who have a resident DCAA auditor.

C. Paperwork Reduction Act

This rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et. seq.

List of Subjects in 48 CFR Chapter 53

Government procurement.

Therefore, it is proposed to amend Title 48 of the Code of Federal Regulations Chapter 53 by adding Appendix B to include Part AFSC 5315 and Part 5352 to read as follows:

APPENDIX B—AIR FORCE SYSTEMS COMMAND FEDERAL ACQUISITION REGULATION SUPPLEMENT

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

PART AFSC 5315—CONTRACTING BY NEGOTIATION

SUBCHAPTER H—CLAUSES AND FORMS

PART AFSC 5352—Solicitation Provisions and Contract Clauses

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

PART AFSC 5315—CONTRACTING BY NEGOTIATION

Subpart AFSC 5315.4—Solicitation and Receipt of Proposals and Quotations

Sec.

AFSC 5315.406-5 Part IV—Representations and instructions.
Subpart AFSC 5315.8—Price Negotiation
AFSC 5315.892 Work measurement pricing and negotiation requirements.
AFSC 5315.892-1 Scope.
AFSC 5315.892-2 Policy.
AFSC 5315.892-3 Procedures.

Authority: 5 U.S.C. 301 and FAR 1.301.

Subpart AFSC 5315.4—Solicitation and Receipt of Proposals and Quotations

AFSC 5315.406-5 Part IV—Representations and instructions.

(b) Section L, Instructions, conditions and notices to offerors.

(vii) Where DOD MIL-STD-1567 is applicable to the instant contract, contractors and their subcontractors shall be advised in the Request for Proposal (RFP) that Type I and Type II labor standards, along with work measurement system data, when available, shall be used in the build-up of all coast estimates and as a basis for negotiations. The data shall also be consistent with recognized cost accounting methods and be verifiable through normal auditing procedures. The Statement of Work (SOW) will also contain provisions for the establishment and maintenance of a DOD MIL-STD-1567 compliant work measurement system.

(viii) If DOD MIL-STD-1567 is not applicable, contractors shall be advised that company-unique labor standards and work measurement system data, when available and consistent with recognized cost accounting methods and is audit verifiable, shall be used in the build-up of all cost estimates and as a basis for negotiation.

(ix) Offerors shall be advised in the solicitation instructions that work measurement system data used to develop cost estimates will be considered by the government as cost or pricing data as defined by FAR 15.804.

(x) Contracting officers shall insert in RFPs a clause substantially the same as Part AFSC 5352.215-9000, Preparation of offers-use of labor standards, on all acquisitions resulting in either full-scale development or production contracts and any modifications to those contracts.

Subpart AFSC 5315.8—Price Negotiation

AFSC 5315.892 Work measurement pricing and negotiation requirements.

AFSC 5315.892-1 Scope.

(a) This section provides guidance for the use of DOD MIL-STD-1567, work measurement data in the pricing, negotiation, and management of systems acquisition programs.

(b) This section applies to all contracts for the acquisition of weapon systems. DOD MIL-STD-1567 must be included in all contracts supporting programs which meet the following criteria:

(1) Full scale development (FSD) exceeding $100 million;

(2) Production exceeding or is expected to exceed $20 million annually or 100 million cumulatively.

(c) All solicitations and resulting contracts meeting the above criteria shall include a clause substantially the same as AFSC 5352.215–9001, Work measurement: Existing system, or AFSC 5352.215–9002, Work measurement: No existing system, as appropriate. If subcontractor flowdown is required, then a clause substantially the same as AFSC 5352.215–9003, Work measurement: subcontractor implementation, shall be inserted into the solicitation and resulting contract.

AFSC 5315.892–2 Policy.

When DOD MIL–STD–1567 is on contract, contractors must use Type I and Type II labor standards, when available, to develop budgets, plans, and schedules; to form a basis for pricing and negotiations; and to baseline performance. Actual costs from earlier acquisitions will not normally be accepted. If actual costs are used, the rational for their use will be documented in the contract file. If DOD MIL–STD–1567 is not a part of a contract, but the contractor has independently developed labor standards, government representatives shall determine if labor standard data was used in the proposal development as required by AFSC 5315.406–5(b). A further determination, coordinated with the Defense Contract Audit Agency (DCAA), will be made that the work measurement system information used to build up the proposal was collected through the contractor's accounting system according to his accepted Cost Accounting System Disclosure Statement. This information shall be considered as cost or pricing data in accordance with FAR 15.804. Work measurement unique terminology is defined in DOD MIL–STD–1567.

AFSC 5315.892–3 Procedures.

(a) DOD MIL–STD–1567 should be used throughout the acquisition process to include SOW development, RFP preparation, contract negotiation, contract award, and contract administration.

(b) DOD MIL–STD–1567 will be monitored as a normal delegated function to the cognizant CAO. This requirement is defined by AFSC 5342.302(a)(73). Continued compliance with all procedures, use of adequately supported labor standards (Type I and other) in the buildup of cost estimates and negotiation, detailed variance analysis and expeditious corrective action and timely notification to the government of system changes (90 days) are factors to be used in determining whether or not a periodic audit or reverification is necessary. Based on this analysis, the cognizant CAO will determine if the contractor is in compliance with DOD MIL–STD–1567. AFCMD is responsible for conducting periodic audit and compliance reviews of contractor work measurement systems.

(c) Specific instructions for preparing Requests for Proposal (RFP) can be found at AFSC 5315.406–5. The intent of these instructions is to ensure that work measurement system data is used in the preparation of the cost proposal(s) and subsequent contract negotiations.

SUBCHAPTER H—CLAUSES AND FORMS

PART AFSC 5352—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart AFSC 5352.2—Texts of Provisions and Clauses

Sec.

AFSC 5352.215–9000 Preparation of offers—use of labor standards.
AFSC 5352.215–9001 Work measurement: existing system.
AFSC 5352.215–9002 Work measurement: no existing system.
AFSC 5352.215–9003 Work measurement: subcontractor implementation.

Authority: 5 U.S.C. 301 and FAR 1.301.

Subpart AFSC 5352.2—Texts of Provisions and Clauses

AFSC 5352.215–9000 Preparation of offers—use of labor standards.

According to AFSC 5315.406–5(b)(x), insert the following clause in the solicitation instructions, Section L:

Preparation of Offers—Use of Labor Standards (July 1987)

The contractor shall prepare the offer using available touch labor standards and other associated work measurement data meeting the criteria of DOD MIL–STD 1567. As a minimum, the contractor will break-out touch requirements by functional category (e.g., fabrication, assembly, functional test, and set-up) for each manufacturing cost element. The contractor's proposal must be supported by the following information: (a) A breakdown of the type and composition of touch labor standards used; (b) a breakdown of the major elements of realization applied; (c) isolation of any unmeasured, off-standard, or other touch labor effort not covered by touch labor standards; (d) any other factors, allowances, or charges to other direct, indirect or overhead cost accounts of personnel who normally perform touch labor functions. All work measurement system data included and used in support of the offer shall be audit verifiable and in accordance with the contractor's Cost Accounting System Disclosure Statement. The government shall be entitled to complete access of the contractor's work measurement system including any associated data, reports, or studies used by the contractor to support the cost estimate. The terminology used in this clause is defined in accordance with DOD MIL–STD 1567.

(End of clause)

AFSC 5352.215–9001 Work measurement: existing system.

According to AFSC 5315.892–1(c), insert the following clause in contracts where DOD MIL–STD–1567 is applicable and the contractor has an existing work measurement system:

Work Measurement: Existing System (July 1987)

(a) The contractor shall maintain a work measurement system that satisfies the requirements of DOD MIL–STD–1567, Work measurement. The contractor agrees to make maximum use of the information derived from this system, including the use of labor standard data, to price, negotiate, and manage. Supporting rationale for manufacturing touch labor cost estimates shall include a breakdown of the applicable labor standards and anticipated realization factors required to prepare and support each cost element. Allowances included in the labor standard and the major components of the realization factor shall be separately explained. In addition, manufacturing labor not categorized as touch labor shall also be separately explained in accordance with the Contractor's Accounting System Disclosure Statement. All data collected and used from the contractor's work measurement system shall be audit verifiable. The government is entitled to complete access to the system and any associated data, reports, or studies.

(b) If the contractor is operating a work measurement system compliant with DOD MIL–STD–1567, then documentation of government review shall be provided. If the government has previously determined system noncompliance, the contractor will submit a corrective action plan within 60 days of contract award. If the government has not previously determined system compliance/noncompliance, the contractor will submit, within 60 days of contract award, a time-phased implementation plan for achieving system compliance with DOD MIL–STD–1567.

(c) During and after system implementation, the contractor's system will be subject to a periodic government audit to reconfirm compliance with DOD MIL–STD–1567. The requirement for the contractor to maintain a work measurement system that meets the criteria of DOD MIL–STD–1567 constitutes a material requirement of this contract. The cognizant CAO shall, for the purposes of progress payment administration, determine the monetary impact to the government of the contractor's failure to meet this requirement.

(End of clause)

AFSC 5352.215-9002 Work measurement: no existing system.

According to AFSC 5315.892-1(c), insert the following clause when DOD MIL-STD-1567 is applicable and the contractor does not have an existing work measurement system in operation:

Work Measurement: No Existing System (July 1987)

(a) The contractor shall document, implement, and maintain a work measurement system that satisfies the requirements of DOD MIL-STD-1567, Work measurement. The contractor agrees to make maximum use of the information derived by this system during and after development, including the use of labor standard data to price, negotiate and manage. Supporting rationale for manufacturing touch labor cost estimates shall include a breakdown of the applicable labor standards and anticipated realization factors required to prepare and support each cost element. Allowances included in the labor standard and the major components of the realization factor shall be separately explained. In addition, manufacturing labor not categorized as touch labor shall also be separately explained in accordance with the Contractor's Accounting System Disclosure Statement. All data collected and used from the contractor's work measurement system shall be audit verifiable. The Government is entitled to complete access to the work measurement system and any associated data, reports, or studies.

(b) The contractor shall provide, within 60 days after contract award, a plan implementing DOD MIL-STD-1567. The plan will include a schedule for the development of Type I labor standards resulting in at least 80% coverage of all categories of touch labor. The plan will also provide a time-phased schedule for implementation of the various tracking, reporting and database management systems. The plan will be updated monthly and be made available for government review upon request. The plan for developing and maintaining the system will include a time-phased set of milestones as agreed to by the government and will result in a system that is fully complaint with DOD MIL-STD-1567 __ months after contract award.

(c) As work measurement policies and procedures are implemented, the government will confirm compliance with DOD MIL-STD-1567. After an initial review of the entire system has been accomplished and corrections made as needed, the system will be subject to a periodic government audit to reconfirm contractor compliance.

(d) Implementation and maintenance of the work measurement system constitutes a material requirement of this contract.

(End of clause)

AFSC 5352.215-9003 Work measurement: subcontractor implementation.

According to AFSC 5315.892-1(c), insert the following clause whenever DOD MIL-STD-1567 will be placed in a contract:

Work Measurement: Subcontractor Implementation (July 1987)

(a) The contractor shall incorporate DOD MIL-STD-1567 in each subcontract which meets the criteria set forth in paragraph 1.2.1 of DOD MIL-STD-1567. The contractor will develop a plan for accomplishing subcontract implementation within 60 days of prime contract award. The plan will provide for the reconciliation of any subcontract implementation related issues. The plan must be executed within 180 days of contract award, resulting in incorporation of MIL-STD-1567A or a request for waiver accomplished.

(b) The contractor shall incorporate in applicable subcontracts adequate provisions for documentation, review and audit of subcontractor systems. The assessment of subcontractor compliance will be the responsibility of the contractor unless otherwise agreed to between the government and contractor. Documented evidence of subcontractor compliance will be made available to the government upon request.

(End of clause)

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 87-20996 Filed 9-11-87; 8:45 am]

BILLING CODE 3910-01-M

Notices

Federal Register
Vol. 52, No. 177
Monday, September 14, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

National Plant Genetic Resources Board Meeting

According to the Federal Advisory Committee Act of October 1972 (Pub. L. 92–463, 86 Stat. 770–776), the USDA, Science and Education, announces the following meeting:

Name: National Plant Genetic Resources Board.

Date: October 6–7, 1987.

Time: 8:30 a.m.–5 p.m., October 6; 8:30 a.m.–5 p.m., October 7.

Place: CIMMYT, Lisboa 27, Apdo. Postal 6–641; Col. Juarez, Deleg. Cuauhtemoc; 06600 Mexico, D.F., MEXICO (El Batan).

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permits.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: To review matters that pertain to plant germplasm in the United States and possible impacts on related national and international programs; and discuss other initiatives of the Board.

Contact Person: C.F. Murphy, Executive Secretary, National Plant Genetic Resources Board, U.S. Department of Agriculture, BARC-West, Room 239, Building 005, Beltsville, Maryland 20705. Telephone: (301) 344–1560.

Done at Beltsville, Maryland, this 25th day of August 1987.

Charles F. Murphy,

Executive Secretary, National Plant Genetic Resources Board.

[FR Doc. 87–21089 Filed 9–11–87; 8:45 am]

BILLING CODE 3410–13–M

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee (CAC) of The American Economic Association (AEA), The CAC of The American Marketing Association (AMA), The CAC of The American Statistical Association (ASA), and The CAC on Population Statistics; Amendment to Notice of Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463 as amended by Pub. L. 94–409), we are giving notice of changes to the separate and jointly held meetings of the CAC of the AEA, CAC of the AMA, CAC of the ASA, and CAC on Population Statistics. The notice of this meeting was originally published in the **Federal Register** on August 21, 1987 (52 FR 31648 and 31649). The joint meeting will convene on October 8, 1987 at the Ramada Hotel, 6400 Oxon Hill Road, Oxon Hill, Maryland 20745.

The meetings will still begin at 11:15 a.m. and adjourn at 5:45 p.m. on October 8. The following three agendas replace those shown in the previously published notice.

The CAC of the AMA

(1) Census Bureau response to recommendations and activities of special interest to the CAC of the AMA, (2) quality of economic statistics (joint with CAC of the AEA), (3) five-year plan on service (joint with CAC of the AEA), (4) marketing the 1987 Economic Censuses, and (5) discussion of data user news.

The CAC of the ASA

(1) Census Bureau response to recommendations and activities of special interest to the CAC of the ASA, (2) new initiatives in population projections (joint with CAC on Population Statistics), (3) evaluation of demographic analysis (joint with CAC on Population Statistics), (4) confidentiality techniques for the 1990 census (joint with CAC on Population Statistics), and (5) 1990 Research, Evaluation, and Experimental (REX) Program (joint with CAC on Population Statistics).

The CAC on Population Statistics

(1) Census Bureau response to recommendations and activities of special interest to the CAC on Population Statistics, (2) new initiatives in population projections (joint with CAC of the ASA), (3) evaluation of demographic analysis (joint with CAC of the ASA), (4) confidentiality techniques of the 1990 census (joint with CAC of the ASA), and (5) 1990 Research, Evaluation, and Experimental (REX) Program (joint with CAC of the ASA).

Persons wishing additional information regarding these meetings may contact the Committee Liaison Officer, Mrs. Phyllis Van Tassel, Room 2428, Federal Building 3, Suitland, Maryland. (Mailing address: Washington, DC 20233). Telephone: (301) 763–5410.

Date: September 4, 1987.

John G. Keane,

Director, Bureau of the Census.

[FR Doc. 87–21030 Filed 9–11–87; 8:45 am]

BILLING CODE 3510–07–M

International Trade Administration

Exporters' Textile Advisory Committee; Open Meeting

A meeting of the Exporters' Textile Advisory Committee will be held October 13, 1987 at 2:30 p.m.-4:30 p.m. at the Princeton Club, 15 West 43rd Street, New York City. The Committee provides advice about ways to promote increased exports of U.S. textiles and apparel.

Agenda:

Review of export data; reports on conditions in the export market; recent foreign restrictions affecting textiles; export expansion activities; and other business.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes, contact Theresa Stuart (202/377–5153).

Date: September 8, 1987.

James Babb,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 87–21050 Filed 9–11–87; 8:45 am]

BILLING CODE 3510–DR–M

Subcommittee on Export Administration of the President's Export Council; Partially Closed Meeting

A partially closed meeting of the President's Export Council Subcommittee on Export Administration will be held October 8, 1987, 9 a.m. to 3 p.m., U.S. Department of Commerce, Herbert Hoover Building, Room 4830, 14th and Constitution Avenue, NW., Washington, DC.

The Subcommittee provides advice on matters pertinent to those portions of the Export Administration Act, as amended, that deal with United States policies of encouraging trade with all countries with which the United States has diplomatic or trading relations, and of controlling trade for national security and foreign policy reasons.

General Session: 9:00 a.m.–11:45 a.m. Status reports by Ad Hoc Working Group Chairmen, and update on Export Administration initiatives.

Executive Session: 1:30–3:00 p.m. Discussion of matters properly classified under Executive Order 12356 pertaining to the control of exports for national security, foreign policy or short supply reasons under the Export Administration Act of 1979, as amended. A Notice of Determination to close meetings, or portions of meetings, of the subcommittee to the public on the basis of 5 U.S.C. 522(c)(1) was approved October 17, 1985, in accordance with the Federal Advisory Committee Act. A copy of the Notice of Determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, (202) 377–4217.

For further information, contact Connie White (202) 377–8760.

Vincent F. DeCain,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 87–21072 Filed 9–11–87; 8:45 am]

BILLING CODE 3510–DT–M

National Bureau of Standards

[Docket No. 61003–7137]

Approval of Federal Information Processing Standards Publication 29–2; Interpretation Procedures for Federal Information Processing Standards for Software

AGENCY: National Bureau of Standards, Commerce.

ACTION: The purpose of this notice is to announce approval of Federal Information Processing Standards Publication (FIPS PUB) 29–2, entitled *Interpretation Procedures for Federal Information Processing Standards for Software*. FIPS PUB 29–2 supersedes FIPS PUB 29–1 in its entirety.

SUMMARY: A proposed revision of FIPS PUB 29–1 was announced in the **Federal Register** (51 FR 7604, dated March 5, 1986). While the comments received expressed support for the proposed procedures, NBS determined that it would be appropriate to broaden the scope of the procedures to include all Federal Information Processing Standards for software. As a result of this determination and after consideration of all comments received from the first **Federal Register** announcement, a second proposed revision of FIPS PUB 29–1 was announced in the **Federal Register** (51 FR 44505, dated December 10, 1986).

All responses received as a result of this second announcement supported the adoption of the proposed FIPS PUB 29–2.

The written comments submitted by interested parties and other material available to the Department were reviewed by NBS. On the basis of this review, the Director of NBS approved FIPS PUB 29–2.

The written comments received are part of the public record and are available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Washington, DC 20230.

EFFECTIVE DATE: September 14, 1987.

ADDRESS: Interested parties may purchase copies of this revised publication from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this publication is set out in the Where to Obtain Copies section of the FIPS PUB.

FOR FURTHER INFORMATION CONTACT: Ms. Mabel V. Vickers, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, (301) 975–3277.

Date: September 2, 1987.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication 29–2

(date).

Interpretation Procedures for Federal Information Processing Standards for Software

Federal Information Processing Standards Publication (FIPS PUBS) are issued by the National Bureau of Standards pursuant to the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89–306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations (CFR).

1. *Purpose*

The purpose of this Federal Information Processing Standards Publication (FIPS PUB) is to establish the procedures for requesting a technical interpretation of any of the Federal Information Processing Standards (FIPS) for software and for providing a solution to the request. This FIPS PUB supersedes FIPS PUB 29–1 in its entirety.

2. Background

The FIPS for software include, but are not limited to, FIPS programming languages, FIPS database languages, FIPS graphics languages, and FIPS operating systems languages. As the standards are used as the basis for the implementation of software, validation of software, or writing of application programs, questions may arise as to the meaning of certain specifications. It is desirable to provide solutions to these questions that can be used uniformly throughout the Federal Government. In order to achieve this objective, the National Bureau of Standards will provide responses to questions of interpretation for the respective FIPS. To assist NBS in providing these responses, a variety of mechanisms may be used, including :

a. Obtaining a recommended interpretation from a committee of the recognized standards body responsible for the development of the standard that has been adopted as a FIPS.

b. Organization of a Federal Interpretation Committee (FIC) which will be responsible for providing a recommended interpretation for a particular FIPS.

c. Consultation with persons recognized as expert in the particular subject matter of the interpretation request.

3. Approving Authority of Interpretations

Director, National Bureau of Standards.

4. Maintenance Agency

U.S. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

5. Cross Index [1]

The following is a current list of the FIPS for which the National Bureau of Standards will issue interpretations. As new software standards are approved, they may be added to this list. Consult the appropriate FIPS PUB for the standard to which the interpretation request applies for any special instructions regarding interpretations.

a. FIPS PUB 21, COBOL.
b. FIPS PUB 68, Minimal BASIC.
c. FIPS PUB 69, FORTRAN.
d. FIPS PUB 109, PASCAL.
e. FIPS PUB 120, Graphical Kernel System.
f. FIPS PUB 123, Data Descriptive File for Information Interchange.
g. FIPS PUB 125, MUMPS.
h. FIPS PUB 126, Database Language NDL.
i. FIPS PUB 127, Database Language SQL.
j. FIPS PUB 128, Computer Graphics Metafile.
k. FIPS PUB [2], UNIX [3] Operating System Derived Environments.
l. FIPS PUB [2], Information Resource Dictionary System (IRDS).

6. Implementing Schedule

These procedures become effective on (date).

7. Applicability

a. The provisions of this document apply to Federal departments and agencies and to vendors of software that wish to have questions concerning specifications of FIPS for software resolved by the National Bureau of Standards.

b. An interpretation that is developed and approved as a result of employing these procedures applies to software, as specified in each interpretation, that is brought into the Federal inventory after the effective date of the interpretation.

8. Procedures

(In the following procedure, each reference to "Federal interpretation Committee" (FIC) should be construed to mean the specific interpretation committee responsible for the software to which the request applies.)

a. *Requesting an Interpretation.* (1) Requests may be submitted by a vendor of software intended to conform to a FIPS for software or by any department or agency of the Federal Government.

(2) Requests for an interpretation should be submitted in writing to the National Bureau of Standards. See paragraph 9 for the address.

(3) A request for interpretation should contain the following information:

(a) Name of organization submitting the request.

(b) Name of individual within the submitting organization who may be contacted concerning the request.

(c) Date by which the interpretation is desired.

(d) Appropriate references to FIPS specifications that have a bearing on the problem cited in the request.

(e) A concise explanation of the problem requiring an interpretation.

(f) Any supporting documentation that will assist in understanding or describing the problem.

(g) Any recommendations the requesting organization would like to make concerning a possible interpretation, along with appropriate justification or comments.

b. *Processing a request for interpretation.* (1) Upon receipt, the National Bureau of Standards will determine which of the following mechanisms will be used in developing a response to the request for interpretation:

(a) Obtaining a recommended interpretation from a committee of the recognized standards body responsible for the development of the standard that has been adopted as a FIPS.

(b) Organization of a Federal interpretation Committee (FIC) which will be responsible for providing a recommended interpretation for a particular FIPS.

(c) Consultation with persons recognized as expert in the particular subject matter of the interpretation request.

(d) Any combination of the mechanisms in (a) through (c) above. At least the mechanism in paragraph (a) above will be used in the case of a request for interpretation of a FIPS that adopts a standard developed by a recognized standards body.

(2) If the FIC is utilized:

(a) The request is distributed to the FIC.

(b) Position papers on proposed solutions to a cited problem may be submitted by any FIC member for consideration by the FIC membership.

(c) The requester of an interpretation may be invited to attend the meeting at which the request will be considered and to participate in the discussion of the problem identified by the request.

(3) If either the appropriate standards body or recognized experts is utilized, the request is sent to that body indicating the date by which an interpretation is desired.

(4) Upon completion of the proposed interpretation, the National Bureau of Standards will:

(a) Arrange for publication of the proposed interpretation in the **Federal Register** and forward it to Federal agencies for the purpose of soliciting comments from Federal agencies, vendors, and private industry.

(b) Notify requester of the proposed interpretation.

(5) Comments received as a result of publication and review of the proposed interpretation will then be reviewed by the National Bureau of Standards and, if appropriate, the body specified in paragraph 8.b.(1), and a final interpretation developed.

c. *Dissemination of an approved interpretation.* (1) The National Bureau of Standards will be responsible for the dissemination of interpretation of FIPS for software.

(2) The approved interpretation will consist of the following information:

(a) Definition of the problem being resolved.

(b) Discussion of the issues relevant to the problem.

(c) Discussion of the solution to the problem (interpretation).

(d) Any necessary clarification to the particular FIPS to effect the resolution.

(e) Effective date of the interpretation.

(3) The approved interpretation will be disseminated and will include, at a minimum, the following: Publication in the **Federal Register**; letter to the Federal agencies; and letter to the requester.

(4) The National Bureau of Standards will maintain a central register of approved interpretations for reference.

9. *Point of Contact*

The following address will be used for correspondence pertaining to interpretations of FIPS for software: Institute for Computer Sciences and Technology, National Bureau of Standards, Attn: Software Interpretations, Gaithersburg, MD 20899.

10. *Where to Obtain Copies*

Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. When ordering, refer to Federal information Processing Standards Publication 29–2 (FIPSPUB–2), and title. When a microfiche is desired, this should be specified. payment may be made by check, money order, or deposit account.

[FR Doc. 87–21095 Filed 9–11–87; 8:45 am]

BILLING CODE 3510-CN-W

[1] Refers to most recent revision of FIPS PUBS.
[2] To be published in the near future.
[3] UNIX is a registered trademark of AT&T.

National Oceanic and Atmospheric Administration

Public Hearings on the Draft Environmental Impact Statement/ Management Plan for the Proposed Cordell Bank National Marine Sanctuary

AGENCY: Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is considering Cordell Bank, located off the coast of northern California, for designation as a national marine sanctuary. NOAA will hold public hearings on a draft environmental impact statement/management plan for the proposed sanctuary. The purpose of the hearings is to receive the views of interested parties on the proposed designation and the draft environmental impact statement/management plan. The views expressed at these hearings, as well as written comments received on the draft, will be considered in the preparation of the final environmental impact statement/management plan.

The hearings will be held on September 29, 1987, from 7:00 to 10:00 PM at the Grange Hall, Bodega Avenue and Highway 1, Bodega Bay, California, and on September 30, 1987, from 7:30 to 10:30 PM at the Golden Gate National Recreation Area Conference Room, Bldg. 201 (First Floor), Fort Mason, San Francisco, California. All interested persons are invited to attend.

FOR FURTHER INFORMATION CONTACT: William W. Windom, (202) 673–5122, Marine and Estuarine Management Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 1825 Connecticut Avenue NW., Washington, DC 20235. Copies of the draft environmental impact statement/management plan are available upon request to the Marine and Estuarine Management Division.

SUPPLEMENTARY INFORMATION: Title III of the Marine Protection Research, and Sanctuaries Act, as amended (16 U.S.C. 1431 *et seq.*) ("Act"), authorizes the Secretary of Commerce to designate discrete areas of the marine environment as national marine sanctuaries if, as required by section 303 of the Act (16 U.S.C. 1433), the Secretary finds, in consultation with the Congress, a variety of specified officials, and other interested persons, that the designation will fulfill the purposes and policies of Title III (set forth in section 301(b) of the Act (16 U.S.C. 1431(b)) and: (1) The area proposed for designation is of special national significance due to its resource or human-use values; (2) existing state and Federal authorities are inadequate to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education; (3) designation of the area as a national marine sanctuary will facilitate the coordinated and comprehensive conservation and management of the area; and (4) the area is of a size and nature that will permit comprehensive and coordinated conservation and management.

The authority of the Secretary to designate national marine sanctuaries and administer the other provisions of the Act has been delegated to the Assistant Administrator for Ocean Services and Coastal Zone Management in the National Oceanic and Atomospheric Administration (DOC/DOO 25–5A, section 301(z), August 25, 1985).

The waters surrounding Cordell Bank were nominated for status as a national marine sanctuary in July 1981. On June 30, 1983, NOAA declared the area an active candidate for further consideration as a national marine sanctuary. A public scoping meeting to gather information to determine the range and significance of issues related to sanctuary designation and management was held on April 25, 1984. The draft environmental impact statement/management plan was prepared, and a notice of its availability was published in the **Federal Register** on August 28, 1987. On the same date, a summary of the draft management plan and the proposed designation document and regulations for the sanctuary were also published in the **Federal Register.** Written comments on the draft environmental impact statement/management plan must be received by October 12, 1987.

Cordell Bank and its surrounding waters, because of a rare combination of Oceanic conditions and undersea topography, provide a highly productive marine environment in a discrete, well defined area. The prevailing California current flows southward along the coast bringing nutrients to the upper levels of the Bank, while the upwelling of nutrient-rich, bottom waters stimulates the growth of planktonic organisms. These nutrients support the entire food chain from small Crustaceans to the fish, marine mammals and seabirds that form the exceptionally vigorous, ecological community flourishing at Cordell Bank. Designation of the area as a national marine sanctuary is proposed for the purposes of protecting and conserving this special ecological community.

With regard to a proposal to designate an area as a national marine sanctuary, section 304(a)(4) of the Act requires that the proposed designation include the geographic area proposed to be included within the sanctuary; the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational or esthetic value; and the types of activities that will be subject to regulation by the Secretary to protect those characteristics. The draft environmental impact statement/management plan contains the terms of the proposed designation and the proposed regulations, discusses the environment and resources of the proposed sanctuary, and describes proposed sanctuary goals and objectives, management responsibilities, research activities, interpretive and educational programs, and enforcement, including surveillance activities, for the area.

(Federal Domestic Assistance Catalog Number 11.429 Marine and Estuarine Management Program)

Dated: September 8, 1987.

Peter L. Tweedt,

Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 87–21027 Filed 9–11–87; 8:45 am]

BILLING CODE 3510–08–M

CONSUMER PRODUCT SAFETY COMMISSION

Labeling of Certain Household Products Containing Methylene Chloride; Statement of Interpretation and Enforcement Policy

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of interpretation and enforcement policy.

SUMMARY: The Commission [1] is issuing an interpretation and a statement of

[1] The Commission voted 2–1 to issue this statement of interpretation and enforcement policy. Commissioners Carol G. Dawson and Anne Graham voted in favor of the policy; Chairman Terrence Scanlon dissented, preferring instead to issue the Commission's determination in the form of a rule under section 3(a) of the Federal Hazardous Substances Act. Each Commissioner filed a separate opinion or statement concerning his or her vote; these opinions can be obtained from the Office of the Secretary Consumer Product Safety Commission, Washington, DC 20207, phone (301) 492–6800.

enforcement policy for household products that contain methylene chloride and that expose consumers to significant amounts of methylene chloride vapor. The Commission considers such products to be hazardous substances, under the provisions of the Federal Hazardous Substances Act, basing its determination on animal test results that indicate such products may pose a carcinogenic risk to humans. Accordingly, if such products are not labeled properly, they are misbranded hazardous substances. This action by the Commission results from concerns raised by tests showing that inhalation of methylene chloride vapor can cause an increased incidence of benign mammary tumors in male and female rats and can cause an increased incidence of carcinomas and adenomas in male and female mice. The evidence currently available to the Commission shows that products in a number of classes present sufficient exposure of consumers to methylene chloride vapor that they should be considered to be hazardous substances. These product classes are named in the following enforcement policy. Additional information may become available in the future showing that additional products are also hazardous substances. Once the enforcement policy becomes effective, the Commission intends to bring individual enforcement actions against products that are not properly labeled (or against the products' manufacturers, distributors, or importers). Such actions will provide full opportunities for the Commission's technical data and legal conclusions to be contested. In addition, such enforcement actions will be preceded by opportunities for industry members and Commission staff to discuss the applicability of the enforcement policy to particular products containing methylene chloride.

DATE: The interpretation and enforcement policy becomes effective on March 14, 1988, as to products whose labels are printed after that date and September 14, 1988 as to products that are packaged after that date.

FOR FURTHER INFORMATION CONTACT: Charles M. Jacobson, Division of Regulatory Management, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492–6400.

SUPPLEMENTARY INFORMATION:

A. Background

Previous Commission Action

On August 20, 1986, the Commission published a proposed rule that would declare household products containing other than contaminant levels of methylene chloride to be hazardous substances. 51 FR 29778. The proposal was prompted by a concern that methylene chloride might pose a carcinogenic risk to humans that was raised by tests showing that inhalation of methylene chloride vapor increased the incidence of various types of benign and malignant tumors in rats and mice.

In 1980, an industry inhalation bioassay in Sprague-Dawley rats and in hamsters was completed. This bioassay (the "Dow study"), published in 1984, showed salivary gland tumors in male rats and an increased number of mammary gland tumors per tumor-bearing rat. There was no carcinogenic effect noted in hamsters. Since then, a number of other bioassays have been published.

The National Toxicology Program ("NTP") of the Public Health Service, Department of Health and Human Services, undertook cancer bioassays of methylene chloride by the oral (gavage) and inhalation routes of exposure. The gavage bioassay was completed first, and the draft report was reviewed by the NTP Board of Scientific Counselors in September of 1982. The study results showed evidence of carcinogenicity in rats. However, an audit of the contractor that performed the bioassay, conducted by the Toxicology Audit Subcommittee of the Health and Science Committee of the Halogenated Solvents Industry Alliance, uncovered a number of discrepancies in the conduct of the bioassay. A subsequent audit, performed by NTP, confirmed these discrepancies. As a result, the NTP withdrew the draft report on the gavage bioassay. The inhalation bioassay report was released after a complete audit was performed.

On March 29, 1985, the NTP Board of Scientific Counselors reviewed the NTP inhalation bioassay and concluded that there was "clear evidence" of carcinogenicity of methylene chloride in female rats, as shown by an increased incidence of benign neoplasms of the mammary gland, and in male and female mice, as shown by increased incidences of alveolar/bronchiolar carcinomas and adenomas and of hepatocellular carcinomas and adenomas (lung and liver cancers). There was also "some evidence' of carcinogenicity in male rats as shown by an increased incidence of benign neoplasms of the mammary gland. Methylene chloride also has been found to be genotoxic in several test systems.

After receiving additional information from the staff and from other parties, the Commission preliminarily decided that scientific evidence indicated that exposure to products containing methylene chloride should be presumed to pose a carcinogenic risk to consumers, but that there was also some uncertainty concerning the potential cancer risk to humans which should be explored further. The Commission therefore decided to initiate formal rulemaking under seciton 3(a) of the Federal Hazardous Substances Act ("FHSA"), 15 U.S.C. 1262(a), in order to resolve this uncertainty. A proposed rule to declare methylene chloride a hazardous substance, based on concerns raised by the test results in animals, was published in the **Federal Register** on August 20, 1986 (51 FR 29778).

The Commission received 17 comments on its proposed rule. Additional information concerning the background of the Commission's activities concerning methylene chloride is contained in the August 20, 1986, **Federal Register** notice.

B. Determination of Hazardous Substance

After considering the comments on the proposed rule described above, the Commission has concluded that the animal test data showing increases in the incidence of various types of benign and malignant tumors in rats and mice are sufficient to warrant a concern that methylene chloride may pose a carcinogenic risk to humans and that products containing it should be considered hazardous substances.

In the comments on the proposed rule, a number of arguments were raised by persons who opposed any determination by the Commission that methylene chloride poses a carcinogenic risk to humans. These arguments examined the available data and presented contentions that, if established, would cost doubt on the presumption that methylene chloride is a human carcinogen or would indicate that the possible risk to humans from various exposures would be much less than that predicted by the Commission's staff. The Commission's staff examined the comments in opposition to a determination that methylene chloride is carcinogenic to humans and presented arguments to either refute the commenters' contentions or to show why the data do not demonstrate the commenters' hypotheses. The Commission's staff also reviewed comments relating to the magnitude of the presumed risk, as well as newly available data, and revised its risk estimates to account for the new data. The Commission's staff's views are contained in various memoranda addressing the comments on the

proposal and in a draft Federal Register notice prepared for the Commission's consideration of whether to issue a final rule.

The comments of two industry associations, the Halogenated Solvents Industry Alliance and the National Paint and Coatings Association, also opposed an express finding by the Commission that methylene chloride is a likely human carcinogen. However, these industry associations also indicated that they did not oppose a determination that at least some household products containing methylene chloride are hazardous substances if that determination were based on a concern that the products are hazardous on the basis of the animal test results, in the absence of strong indications to the contrary. In other words, the industry did not feel that the scientific data demonstrates that methylene chloride is a human carcinogen and that, as additional information is obtained on the response of humans to methylene chloride, it is possible that methylene chloride will be shown to not be carcinogenic to humans. Nevertheless, the industry acknowledges that the animal test results are a sufficient cause for concern that methylene chloride should be considered a hazardous substance until conclusive evidence on the various points of contention is obtained.

After considering the comments on the proposed rule, and the other available evidence, the Commission has concluded that there is little or no uncertainty involved in a determination that household products containing methylene chloride, and presenting significant exposures to consumers, may pose a carcinogenic risk to humans unless and until persuasive evidence to the contrary is obtained. While the Commission supports the analysis of the scientific issues prepared by its staff, it is unnecessary to make a conclusive determination of all these issues at this time for the purpose of determining that there is sufficient uncontested evidence to warrant a finding that methylene chloride may pose a carcinogenic risk to humans and, therefore, is a hazardous substance. Therefore, the Commission concludes that, as to the core findings required to make a determination that household products containing methylene chloride are hazardous substances, there is no significant controversy, and it is unnecessary to continue with the rulemaking proceeding, which is intended to avoid or resolve uncertainty.

Rather than continue with the rulemaking, the Commission believes it is preferable to issue this statement of interpretation and enforcement policy. If the rulemaking proceeding were continued, there is a potential that there would be a subsequent adjudicatory hearing, as well as subsequent appeals to the Commission and to a court of appeals, which could delay the effective date of the rule for up to several years. Issuing this statement of the Commission's views, however, will advise affected manufacturers of the Commission's interpretation that certain household products containing methylene chloride are hazardous substances. The Commission believes that most manufacturers will begin steps immediately to incorporate appropriate labeling, discussed below, that is required by the FHSA. The major industry associations mentioned above have indicated their willingness to adopt appropriate labeling, and a broad cross-section of industry represented in the Steering Committee for Methylene Chloride came to consensus agreement on such labeling.

As discussed below, the Commission intends to allow a sufficient time for manufacturers to adopt revised labels without unnecessary costs involved in overlabeling products or discarding previously printed labels. After that time, the Commission intends to bring individual enforcement actions against improperly labeled products, or against the manufacturers, distributors, or retailers of such products. In such enforcement actions, the defendants will have full opportunity to contest the toxicity of methylene chloride, the exposure to consumers presented by the particular product, or any other technical or legal principle relied on by the Commission.

The publication of this notice expresses the Commission's view that the issues raised in the proposed rule can be best dealt with by issuing this statement of interpretation and enforcement policy; however, it is not intended to withdraw the proposed rule. Therefore, if it appears in the future that voluntary compliance with the Commission's interpretation, supported by enforcement actions against noncomplying firms, is inadequate to obtain uniform compliance with the FHSA, the Commission will have the option of resuming the rulemaking proceeding.

c. Products Believed To Be Hazardous

The data presently available to the Commission indicate that products in the following classes that contain methylene chloride can expose consumers to significant amounts of methylene chloride vapor and are thus hazardous substances.

(1) Paint strippers.
(2) Adhesive removers.
(3) Spray shoe polish.
(4) Adhesives and glues.
(5) Paint thinners.
(6) Glass frosting and artificial snow.
(7) Water repellants.
(8) Wood stains and varnishes.
(9) Spray paints.
(10) Cleaning fluids and degreasers.
(11) Aerosol spray paint for automobiles.
(12) Automobile spray primers.
(13) Products sold as methylene chloride.

In order to provide some definiteness to manufacturers, the Commission states that it does not presently have information showing that products in these categories that contain one percent or less of methylene chloride are hazardous substances.

However, the fact that a product is not specifically named above, or that it contains one percent or less of methylene chloride, does not mean that the product is *not* a hazardous substance. Since the available data on the unnamed categories are not definitive, the status of the unnamed products as hazardous substances could be reconsidered by the Commission if additional information showing significant exposures became available.

Since the FHSA applies to, among other things, all toxic household substances that may cause substantial personal injury or substantial illness as a proximate result of any customary or reasonably foreseeable handling or use, if additional information becomes available showing that products that are not now specifically identified present significant exposures, labeling for such products would be automatically required by section 2(p)(1) of the Act. 15 U.S.C. 1261(p)(1). In this event, the Commission could bring enforcement actions against manufacturers of such products that refused to provide appropriate labeling. In such actions, the Commission would have to establish that the product was a hazardous substance, and all issues relied on by the Commission could be contested by the defendant.

D. Required Labeling

General FHSA Labeling Requirements

One of the statutes administered by the Commission is the Federal Hazardous Substances Act ("FHSA"), 15 U.S.C. 1261–1276, which establishes certain requirements and gives the Commission certain remedial powers

with respect to hazardous household substances. Under section 2(g) of the FHSA, 15 U.S.C. 1261(g), a "toxic" substance is defined as "any substance (other than a radioactive substance) which has the capacity to produce personal injury or illness to man through ingestion, inhalation, or absorption through any body surface." Section 2(f)(1) of the FHSA defines "hazardous substance" as including:

> (A) Any substance or mixture of substances which (i) is toxic, [or other enumerated hazards] . . ., if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.

15 U.S.C. 1261(f)(1).

Under section 2(p)(1) of the FHSA, a hazardous substance that is intended, or packaged in a form suitable, for use in the household is misbranded if it fails to bear a label with certain specified labeling. Included in the required labeling is:

> (D) the signal word "WARNING" or "CAUTION" . . . (E) an affirmative statement of the principal hazard or hazards, such as "Flammable", "Combustible," "Vapor Harmful", "Causes Burns", "Absorbed Through Skin", or similar wording descriptive of the hazard; (F) precautionary measures describing the action to be followed or avoided, . . ."

15 U.S.C. 1261(p)(1).

Since the Commission has determined that household products which can expose consumers to methylene chloride vapor are hazardous substances because they may pose a carcinogenic risk to humans, such products will be required to bear labeling that meets the requirements of section 2(p)(1) of the FHSA.

Also, the labels for all products subject to the FHSA are expected to comply with the Commission's regulations, at 16 CFR 1500.121, for the prominence, placement, and conspicuousness of labeling required by the FHSA. These regulations provide that all items of labeling required by the FHSA may be placed on the "principal display panel" (hereinafter called the "front panel") on the immediate container and, if appropriate, on any other container or wrapper. The signal word (*i.e.*, "DANGER", "WARNING", or "CAUTION") and the statement of principal hazard(s) are required to be on the front panel. The other items of required labeling may be placed on some other display panel on the container (hereinafter called the "back panel"), provided that the front panel contains the statement "Read carefully other cautions on the [back] panel" or its practical equivalent.

Labeling for Potential Cancer Hazards

1. *General Principals*

The Commission believes that labeling for potential cancer hazards under the FHSA must adhere to three general principles. These principles may be applied somewhat differently to different products, depending on the degree of exposure presented by a product. These principles are discussed immediately below. Following that discussion, this notice discusses how the application of these principles can result in different labeling for different products, depending on whether the particular product involved presents a potentially high or low degree of exposure in reasonably foreseeable use or misuse.

a. *Indication of a potential cancer hazard.* The nature of the hazard of being exposed to a substance that may cause adverse chronic effects is that the hazard does not necessarily present itself to the senses of persons exposed to the substance. Where a product presents only acute hazards, preliminary symptoms of the acute exposure, such as dizziness, eye watering, or headaches, may serve to warn the user that he or she is being exposed to an excessive amount of the substance. With a presumed chronic hazard, however, the exposure level that may cause acute symptoms may exceed the exposure level that could present a significant chronic risk to persons using a product containing the substance. Since the product itself may not warn of the chronic hazard associated with exposure to the substance, it is especially important that the product's label communicate the hazard to the user in a way that will motivate the user to take adequate precautions against overexposure.

The Commission believes that in order for a label to motivate the user to take adequate precautions against overexposure to a potential cancer hazard, the label should indicate that exposure to the product may present a cancer hazard. This could be accomplished by having the front panel carry the statement of principal hazard, "vapor harmful" or the equivalent, while the back panel would contain a more specific indication of a possible cancer hazard, such as "cancer hazard" or "this product contains methylene chloride, which has been shown to cause cancer in certain laboratory animal tests," or the like. Alternatively, the statement of principal hazard on the front panel could state both "vapor harmful" or the equivalent and the more specific indication that one of the hazards presented is that of carcinogenicity.

b. *An explanation of factors that control the degree of risk.* The Commission believes that the labeling for a potential cancer hazard should indicate that the risk to the user is related to the level and duration of exposure. Products involving greater exposure need an explicit statement that both the concentration of the vapors to which one is exposed and the length of exposure are factors affecting risk to the user. This will also have the effect of reinforcing in the user the notion that there are actions that the user can take to reduce the risks associated with using the product. As discussed further below, products presenting lower exposures in reasonably foreseeable use scenarios can use labeling that is less explicit to satisfy this aspect of FHSA labeling.

c. *Precautions to be taken.* Products presenting the higher degrees of exposure should bear detailed descriptions of the particular precautions that are necessary. This element of required labeling includes an explanation of the specific actions that should be taken or avoided by users. An example of such instructions, developed for products such as paint strippers by the Steering Committee for Methylene Chloride, is given below. Statements such as "use with adequate ventilation," that have been used commonly in the past with respect to acute inhalation hazards, are insufficient for products that present a chronic hazard at levels where no acute symptoms are manifested. As explained in more detail below, however, for products presenting low exposures, a direction to use the product outdoors or with windows opened or to not use the product in a small room, or the like, could adequately satisfy this element of FHSA labeling.

2. How Labeling May Vary With Different Products

There are wide variations in the concentrations of methylene chloride in different product classes and in different products within a single class. Furthermore, there are differences in the reasonably foreseeable ways that the various products containing methylene chloride are used. Accordingly, the exposures associated with various products vary widely. This fact caused the Commission to consider the extent to which different labeling might be appropriate for those products that present the highest exposures than is appropriate for those products where exposure is lower.

After considering this issue, the Commission has concluded that the three general principles of chronic hazard labeling under the FHSA, described above, should apply to all products that are considered to be hazardous substances because they contain methylene chloride. However, the particular information on the labels of products in the high and low exposure categories could be considerably different and still comply with these general principles.

The strongest labeling is required for the products involving the higher exposures. Of the product classes on which the Commission currently has data, the ones involving the greatest exposure to the individual user are paint strippers and adhesive removers. A description of suitable labeling for paint strippers containing relatively large amounts of methylene chloride is given below. Similar labeling, with appropriate modifications to reflect the different manners of use, would be required for those adhesive removers that present similar exposures. Any attempt to qualify or limit the apparent seriousness of the required warnings would be inappropriate for these high-concentration products.

On the other hand, the presently available information indicates that certain products in the remaining product classes subject to the rule may present lesser hazards, in varying degrees. As to these products, it may be appropriate to provide additional explanation on the label to inform the user or potential purchaser that, when properly used, the exposure can be considered slight. For example, products that are rarely used indoors or that have low concentrations of methylene chloride and otherwise result in low exposures in normal use may be able to appropriately use additional label language to help consumers put the hazard presented by the product in context. However, the Commission believes that such labeling qualifications should not be used unless methylene chloride is the only ingredient that requires cautionary labeling and the manufacturer has a sound basis for concluding that the product in fact presents a suitably low concentration of methylene chloride or that the exposure expected from the product is otherwise very low.

Another difference from the labeling practices used for the highest exposure products that might be appropriate for lower exposure products involves the need for the product's label to indicate that the potential risk depends on the length and severity of the exposure. Where a product's normal exposure is either short or low, the label may not need to specifically point out that aspect of the factors relating to risk.

As provided in 16 CFR 1500.128, the Commission's staff routinely provides labeling advice to manufacturers on labeling necessary to comply with the FHSA. The staff remains available for such informal advice, where desired, for products containing methylene chloride.

3. Detailed Example of Labeling for Paint Strippers

The Steering Committee for Methylene Chloride, a group of industry and consumer interest representatives working with the Commission's staff, previously considered the question of labeling language that will adequately convey to users the information needed to enable users to protect themselves and that will also comply with the requirements of the FHSA. The Steering Committee recommended the following labeling for products, such as some paint strippers, that contain high percentages of methylene chloride. The Commission believes that this labeling meets, and in certain respects exceeds, the minimum requirements of section 2(p)(1) of the FHSA.

[Front Panel]

CAUTION: Vapor Harmful. Read Other Cautions and HEALTH HAZARD INFORMATION on Back Panel

[or equivalent language]

[Back Panel]

Contains methylene chloride, which has been shown to cause cancer in certain laboratory animals. Risk to your health depends on level and duration of exposure.

[Or equivalent language]

[The back panel labeling given above would be placed separately from use precaution information such as the following.]

Use this product outdoors, if possible. If you must use it indoors, open all windows and doors or use other means to ensure fresh air movement during application and drying. If properly used, a respirator may offer additional protection.* Obtain professional advice before using.* A dust mask does not provide protection against vapors.* Do not use in basement or other unventilated area.

Open container carefully and close after each use. Clean up rags, papers, and waste promptly. Allow solvent to evaporate, then dispose of in metal containers.

[Or equivalent language suitable for the particular product involved.]

A label such as that stated above would be required by the potential carcinogenic inhalation hazard from paint strippers, although some of the precautions stated also may serve to protect against acute hazards that might be presented. Of course, the product's labeling would also have to meet the other requirements of the FHSA and to address other hazards that the product may present. For example, the label may have to address the acute toxicity of methylene chloride, flammability hazards associated with a product, toxic gases that can be produced by contact with flame or hot surfaces, or the need to avoid contact with skin or eyes because of irritant or corrosive qualities in a product. Also, the label would have to include, when necessary or appropriate, instructions for first aid treatment, including instructions on actions to take if overcome by vapors.

Also, the particular precautions about actions to be taken or avoided that are given in the above example are intended primarily for paint removers, and these precautions may not apply to other products containing methylene chloride. For example, some products may not involve rags or other items that need to be disposed of separately.

E. Effect on State and Local Laws

Section 18(b)(1)(A) of the FHSA, 15 U.S.C. 1261n, provides:

(b)(1)(A) Except as provided in paragraphs (2) and (3) [15 U.S.C. 1261n], if hazardous substance or its packaging is subject to a cautionary labeling requirement under section 2(p) or 3(b) [15 U.S.C. 1261(p), 1262(b)] designed to protect against a risk of illness or injury associated with the substance, no State or political subdivision of a State may establish or continue in effect a cautionary labeling requirement applicable to such substance or packaging and designed to protect against the same risk of illness or injury unless such cautionary labeling requirement is identical to the labeling requirement under section 2(p) or 3(b).

Under the Commission's interpretation, products that contain methylene chloride and that expose consumers to significant amounts of methylene chloride vapor are hazardous substances subject to the requirements of section 2(p)(1) of the FHSA. Therefore, under the terms of section 18(b)(1)(A) of the FHSA, the Commission concludes that any statutes or regulations of state or local governments establishing cautionary labeling requirements designed to protect against the risk are void and unenforceable to the extent that the state or local requirements are not

*The use of respirators may not be a practical way for most consumers to protect themselves from methylene chloride vapors. Accordingly, the Commission should point out that the statement concerning respirators in the above labeling example that was recommended by the Steering Committee on Methylene Chloride is not required by the FHSA.

identical to the requirements under section 2(p)(1) of the FHSA.

F. Administration of the Enforcement Policy

Under the FHSA, firms are responsible for deciding whether their products containing methylene chloride meet the definition of hazardous substance. This involves consideration of the concentration of methylene chloride in the product and of the ways the product is used to determine if the product presents a significant exposure to methylene chloride vapor. The Commission recognizes that this decision can be difficult, and the Commission has attempted to give as much guidance as possible in this notice. In addition, the Commission will assist firms to the fullest extent possible.

Before an enforcement action is brought against a firm that is thought to be improperly labeling a product containing methylene chloride, the firm will be given an opportunity to informally present evidence to the Commission staff that its product does not present a significant exposure to methylene chloride vapor in reasonably foreseeable handling or use of the product. The policy can be fairly administered only with such a case-by-case approach that recognizes differences in the levels of risk presented by different household products containing methylene chloride.

G. Effective date

In order to minimize any adverse economic effects to firms who must change labels in order to comply with the FHSA, this enforcement policy will be effective March 14, 1988 as to products whose labels are printed after that date and September 14, 1988 as to products that are packaged after that date.

H. Conclusion

For the reasons explained above, the Commission believes that household products that present a significant exposure to methylene chloride vapor are hazardous substances due to a potential hazard of human carcinogenicity. Labeling required by the FHSA will be enforced in accordance with the policy explained above. This policy is not a binding rule, but is merely a notice of the Commission's intention to bring appropriate enforcement actions under the FHSA. In any such actions, any parties who disagree about whether particular products containing methylene chloride are hazardous substances will have the opportunity to challenge the Commission's technical data and legal conclusions in federal district court.

Because this enforcement policy is not a proposed or final rule, the Regulatory Flexibility Act is inapplicable. Further, neither the publication of this notice nor the bringing of enforcement cases under the policy has any significant potential for affecting the environment, and no environmental assessment or environmental impact statement is required.

Dated: September 9, 1987.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 87-21094 Filed 9-11-87; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF EDUCATION

[CFDA No. 84.004C]

Notice Inviting Applications for New Awards Under Desegregation of Public Education; State Educational Agency Desegregation Program for Fiscal Year 1988.

Purpose: Provides grants to State Educational Agencies (SEAs) to enable them to provide technical assistance (including training) at the request of school boards and other responsible governmental agencies, in the preparation, adoption, and implementation of plans for the desegregation of public schools and in the development of effective methods of coping with special educational problems occasioned by desegregation.

Deadline for Transmittal of Applications: November 9, 1987.

Deadline for Intergovernmental Review Comments: January 11, 1988.

Applications Available: September 25, 1987.

Available Funds Anticipated: The Administration's budget request for fiscal year 1988 does not include funds for this programs. However, applications are being invited to allow sufficient time to evaluate applications and complete the grant process before the end of the fiscal year, should the Congress appropriate funds for this program.

Estimated Range of Awards: $100,000 to $750,000.

Estimated Average Size of Awards: $303,846.

Estimated Number of Awards: 52.

Project Period: 12 Months.

Applicable Regulations: (a) The Desegregation of Public Education Regulations, 34 CFR Parts 270 and 271, and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 79, except that 34 CFR 75.200 trhough 75.217 (relating to the evaluation and competitive review of grants) do not apply to grants awarded under 34 CFR Part 271.

For Applications or Information, Contact: Steven L. Brockhouse, U.S. Department of Education, 400 Maryland Avenue SW., Room 2059, Washington, DC 20202, Mail Stop 6264. Telephone: (202) 732-4342.

Program Authority: 42 U.S.C. 2000c-2000c-2; 2000c-5.

Dated: August 28, 1987.

Beryl Dorsett,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 87-21053 Filed 9-11-87; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP87-118-000]

Proposed Changes in FERC Gas Tariff; Williams Natural Gas Co.

September 8, 1987.

Take notice that Williams Natural Gas Company (WNG) on August 31, 1987, tendered for filing First Revised Sheet Nos. 59, 69, 76 and 94 to its FERC Gas Tariff, Original Volume No. 1 and First Revised Sheet Nos. 10, 21, 31, 56, 59, 78, 92 and 267 to its FERC Gas Tariff, Original Volume No. 2.

WNG states that the purpose of this filing is to enable WNG to change its accounting and billing procedures from a fiscal month basis to a calendar month basis.

The proposed effective date of the above tariff sheets is October 1, 1987.

WNG states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any persons desiring to be heard or 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 or 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 15, 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. 87-21062 Filed 9-11-87; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $1,800,000 (plus accrued interest) obtained pursuant to a consent order between the DOE and Suburban Propane Gas Corporation (Suburban). The funds will be distributed to refund applicants who purchased propane, butane, and natural gasoline from Suburban entities, including Suburban's Eastern Division, Midwest Division, NGL Department, VanGas, and Exploration and Production Division, during the period November 1973 through October 1978 (the consent order period).

DATE AND ADDRESS: Applications for refund must be filed by December 14, 1987, and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All applications should be filed in duplicate and display a conspicuous reference to Case Number KEF-0038.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-2094.

SUPPLEMENTARY INFORMATION: In accordance with Section 205.282(c) of the procedural regulations of the Department of Energy (DOE), 10 CFR 205.282(c), notice is hereby given of the issuance of the final Decision and Order set out below. The Decision sets forth the procedures that the DOE has formulated to distribute monies obtained from Suburban Propane Gas Corporation to settle possible pricing violations with respect to the firm's sales of propane, butane, and natural gasoline during the consent order period. Under the terms of the consent order, Suburban remitted $1,800,000, which is being held in an interest-bearing escrow account.

We will distribute these funds in two stages. In the first stage, we will accept claims from identifiable purchasers of propane, butane, an natural gasoline who may have been injured by Suburban's pricing practices during the consent order period. The specific requirements which an applicant must meet in order to receive a refund are set out in Section II of the Decision. Claimants who meet these specific requirements will be eligible to receive refunds based on the number of gallons of propane, butane, and natural gasoline which they purchased from Suburban entities. If any funds remain after meritorious claims are paid in the first stage, they may be used for indirect restitution in accordance with the Petroleum Overcharge Distribution and Restitution Act of 1986, Pub. L. 99-509, 1 Fed. Energy Guidelines ¶11,702 *et seq.*

Applications for refunds may now be filed by customers who purchased propane, butane, and natural gasoline from Suburban during the consent order period. Applications must be filed within 90 days of publication of this notice in the **Federal Register** and should be sent to the address set forth at the beginning of this notice. All applications received will be available for public inspection between the hours of 1:00 p.m. and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Date: September 4, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: Suburban Propane Gas Corporation

Date of Filing: May 21, 1986

Case Number: KEF-0038

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request the Office of Hearings and Appeals (OHA) to formulate and implement procedures for the distribution of funds obtained by the DOE as a result of the agency's enforcement of the Mandatory Petroleum Price and Allocation Regulations. *See* 10 CFR Part 205, Subpart V. Pursuant to the provisions of Subpart V, on May 21, 1986, the ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a Consent Order that it entered into with Suburban Propane Gas Corporation (Suburban). In its Petition, the ERA requests that the OHA establish special procedures to make refunds in order to remedy the effects of the alleged regulatory violations that were settled in the Suburban Consent Order. This Decision contains the procedures which the OHA has formulated to govern the distribution of the Suburban Consent Order funds.

I. Background

Suburban was engaged in the production, refining, and marketing of crude oil, refined petroleum products, and natural gas liquid products during the period of federal petroleum price controls, March 6, 1973 through January 27, 1981. It was therefore subject to the Mandatory Petroleum Price Regulations set forth at 6 CFR Part 150 and 10 CFR Part 212. The ERA conducted several extensive audits of Suburban's operations and, as a result of those audits, contended in the course of a number of administrative proceedings that Suburban and its subsidiaries had violated applicable DOE price regulations in the refining and marketing of petroleum products during the audit periods.

In order to settle all claims and disputes between Suburban and the DOE regarding the firm's sales of propane, butane, and natural gasoline, the parties entered into a Consent Order on March 21, 1986. Under the terms of the Consent Order, Suburban deposited $1,800,000 into an interest-bearing escrow account for ultimate distribution by the DOE. As of July 31, 1987, the total value of the Suburban escrow account was $1,944,115.

On June 26, 1987, the OHA issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of the Suburban Consent Order funds. In order to give notice to all potentially affected parties, a copy of the PD&O was published in the **Federal Register** and comments regarding the proposed refund procedures were solicited. 52 FR 25298 (July 6, 1987). We received no comments concerning the proposed procedures for the distribution of the Suburban Consent Order funds. Consequently, they will be adopted as proposed.

II. Refund Procedures

Subpart V sets forth general guidelines to be used by the OHA in formulating plans for distributing funds received as a result of enforcement proceedings. The Subpart V process may be used in situations like the present case where the DOE is unable to readily identify those persons who may

have been injured by alleged overcharges or ascertain the amount of the refunds they should receive.

The distribution of refunds in this proceeding will take place in two stages. In the first stage, we will accept claims from identifiable purchasers of propane, butane, and natural gasoline (the covered products) who may have been injured by Suburban's pricing practices during the period November 1, 1973 through October 31, 1978 (the Consent Order period). Such purchasers likely obtained the covered products from the following Suburban entities: Eastern Division; Midwest Division; NGL Department; VanGas; and Exploration and Production Division. If any funds remain after all meritorious first-stage claims have been paid, they may be used for indirect restitution in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986, Pub. L. 99-509, 1 Fed. Energy Guidelines ¶11,702 *et seq.*

A. Refunds to Identifiable Purchasers

In the first stage of the Suburban refund proceeding, we will distribute the funds currently in escrow to claimants who demonstrate that they were injured by Suburban's alleged overcharges. Although there is a variety of methods by which such a showing can be made, a refiner, reseller or retailer claimant is generally required to demonstrate (i) that it maintained "banks" of unrecovered costs, in order to show that it did not pass the alleged overcharges through to its own customers, and (ii) that market conditions were the reason that it did not pass through those increased costs.

We will adopt presumptions of injury which have been used in many prior refund cases. These presumptions will enable applicants to participate in the refund process without incurring inordinate expense and will allow the OHA to consider the refund applications in the most efficient manner possible. See 10 CFR 205.282(e).

1. *Applicants Claiming a Refund of $5,000 or Less.* The first presumption we will use is that purchasers of Suburban propane, butane, and natural gasoline seeking small refunds were injured by the alleged regulatory violations settled in the Suburban Consent Order. Under the small claims presumption, a reseller or retailer seeking a refund of $5,000 or less will not be required to submit any additional evidence of injury beyond establishing the volume of covered products it purchased during the settlement period. *See, e.g., Marathon Petroleum Co.*, 14 DOE ¶85,269 (1986) (*Marathon*) and cases cited therein. This presumption is based on a number of considerations. In order to make a detailed claim of injury, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive, and in the case of small claims, the cost to the firm of gathering evidence of injury to support a refund claim could exceed the expected refund. In addition, use of the small claims presumption is desirable from an administrative standpoint because it allows the OHA to process a large number of routine refund claims quickly.

2. *Refiners, Resellers, and Retailers Seeking Larger Refunds.* In lieu of making a detailed showing of injury, a refiner, reseller, or retailer claimant whose allocable share exceeds $5,000 may elect to receive as its refund the larger of $5,000 or 60 percent of its allocable share up to $50,000.[1] The use of this presumption reflects our conviction that these medium-range claimants were likely to have experienced some injury as a result of the alleged overcharges. *See Marathon*, 14 DOE at 88,515. In a prior refund proceeding, we determined that a 60 percent presumption for medium-range NGLP purchasers accurately reflected the amount of their injury as a result of those purchases. *See Getty Oil Company*, 15 DOE ¶ 85,064 (1986) at 88,123. We therefore will adopt the 60 percent presumptive level of injury for all medium-range claimants in this proceeding. Consequently, an applicant in this group will only be required to provide documentation of its purchase volumes of Suburban covered products in order to be eligible to receive a refund of 60 percent of its total volumetric share.[2] Large claimants, those who purchased more than 78,764,965 gallons, may elect to limit their claim to $50,000 rather than submit a detailed showing of economic injury.

3. *Spot Purchasers.* We also will adopt a rebuttable presumption that refiners and resellers who made spot purchases from Suburban did not suffer economic injury as a result of those purchases. As we have previously noted, spot purchasers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of Suburban's products at increased prices unless they were able to pass through the full price of the purchases to their own customers. *Office of Enforcement*, 8 DOE ¶ 82,597 at 85,396-97 (1981). Therefore, a firm which made only spot purchases from Suburban will be ineligible to receive a refund, even one below the $5,000 threshold level, unless it presents evidence rebutting the spot purchaser presumption. Such evidence must establish that the spot purchaser was unable to recover the price it paid for Suburban's products and that it was forced by market conditions to make the purchases upon which its refund claim is based. *See, e.g., Marathon*, 14 DOE at 88,515; *Dorchester Gas Corporation*, 14 DOE ¶ 85,240 at 88,452 (1986).

4. *Agricultural Cooperatives and Regulated Utilities.* We will also adopt the presumption that regulated industries (such as public utilities) and agricultural cooperatives absorbed the alleged Suburban overcharges. These types of applicants will not have to submit any further evidence of injury in order to qualify for the full amount of volumetric refund based on purchase volumes that were used by themselves or sold to members. Any overcharges suffered by such firms would have been passed through to their customers by the regulatory bodies or agreements that control the prices they may charge. Similarly, any refunds they receive would automatically be passed through to their customers. Consequently, we will permit an entity of this type to receive a full volumetric refund, provided that it includes in its refund application a full explanation of the manner in which refunds will be passed through to its customers. *See Office of Special Counsel*, 9 DOE ¶ 82,538 at 85,203 (1982).

5. *End-Users.* Finally, we will presume that end-users or ultimate consumers whose businesses were unrelated to the petroleum industry were injured by Suburban's alleged overcharges. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the Consent Order period. As a result, they were not required to base their pricing decisions on cost increases or to keep records which would show whether they passed through cost increases. For this reason, an analysis of the impact of the alleged overcharges on the final prices of non-

[1] That is, claimants who purchased between 4,725,898 gallons and 78,764,965 gallons of Suburban propane, butane, and natural gasoline during the Consent Order period may elect to use this presumption.

[2] A medium-range claimant may elect not to receive a refund based upon this presumption and may instead attempt to show that it is eligible for a refund equal to its full allocable share by making a detailed showing of injury using the general criteria set forth above. However, the 60 percent presumption will not be available to medium-range claimants who submit a detailed injury showing which leads us to conclude that they are eligible for a refund of less than 60 percent of their volumetric share.

petroleum goods and services would be beyond the scope of a special refund proceeding. *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984). Therefore, end-users of Suburban covered products need only document their purchase volumes from the firm to make a sufficient showing that they were injured by the alleged overcharges. On the other hand, refund applicants whose business operations were subject to the DOE regulatory program and who purchased Suburban covered products for consumption as fuel or raw materials will not be considered end-users for the purpose of the showing of injury. *Seminole Refining Inc.*, 12 DOE ¶ 85,188 at 88,576 (1985).

B. Calculation of Refund Amounts

We will use a volumetric method to divide the Suburban escrow account among applicants who demonstrate that they are eligible to receive refunds. This method generally presumes that the alleged overcharges were spread equally over all the gallons of propane, butane, and natural gasoline sold by Suburban during the Consent Order period. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. However, we also recognize that the impact on an individual purchaser might have been greater, and any purchaser may file a refund application based on a claim that it incurred a disproportionate share of the injury from Suburban's alleged overcharges.

Under the volumetric method we will adopt, a claimant will be eligible to receive a refund equal to the number of gallons of Suburban covered products that it purchased during the consent order period multiplied by the volumetric refund amount. The volumetric refund amount in this case will be $0.001058 per gallon.[3] In addition, successful claimants will receive a proportionate share of the accrued interest.

As in previous cases, we will establish a minimum refund amount of $15 for first stage claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982).

C. General Refund Application Requirements

Pursuant to 10 CFR 205.283, we will now accept Applications for Refund from individuals and firms that purchased propane, butane, and natural gasoline sold by Suburban between November 1, 1973 and October 31, 1978. There is no specific application form that must be used. However, a suggested format for Applications for Suburban Refunds is set forth in the Appendix to this Decision. All Applications for Refund should include the following information:

(1) A conspicuous reference to Case Number KEF–0038 and the applicant's business name and address.

(2) The name, title, and telephone number of a person who may be contacted by OHA for additional information concerning the Application.

(3) The manner in which the applicant used the Suburban propane, butane, or natural gasoline, i.e., whether it was a refiner, reseller, retailer or end-user.

(4) The volume of Suburban propane, butane, and natural gasoline it purchased during each month of the Consent Order period and the Division or Suburban subsidiary from which it obtained the product(s). If the applicant was an indirect purchaser it must also submit the name of its immediate supplier and indicate why it believes the covered product was originally sold by Suburban.

(5) If the applicant is a reseller, retailer or refiner which wishes to claim a refund in excess of $5,000 and does not elect the 60 percent injury presumption for calculating its refund, or which wishes to claim a refund in excess of $50,000, it should also:

(a) State whether it maintained banks of unrecouped product cost increases and furnish the OHA with quarterly bank calculations through January 27, 1981;

(b) State whether it or any of its affiliates have filed any other Applications for Refund in which it referred to its level of banks as a basis for refund; and

(c) Submit evidence that it did not pass through the alleged overcharges to its customers. For example, a firm may submit market surveys to show that price increases were infeasible.

(6) If the applicant is in any way affiliated with Suburban, it must indicate the nature of the affiliation.

(7) If there has been a change in ownership of the entity that purchased the Suburban propane, butane, or natural gasoline, the applicant must provide the names and addresses of the other owners, and should either state the reasons why a refund should be paid to the applicant rather than the other owners or provide a signed statement from the other owners indicating that they waive their claim to a refund.

(8) If the applicant is involved in DOE enforcement or private actions filed under Section 210 of the Economic Stabilization Act, it should describe the action and its current status. If the applicant was a party to such an action which is no longer pending, it should indicate how the proceeding was resolved. The applicant must keep the OHA informed of any change in status during the pendency of its Application for Refund. *See* 10 CFR 205.9(d).

(9) All applicants must submit the following signed statement: "I swear [or affirm] that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001.

All applications must be filed in duplicate and must be received within 90 days from the date of publication of this Decision in the **Federal Register**. A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals. Any applicant that believes that its application contains confidential information must indicate this and submit two additional copies of its application from which confidential information has been deleted. All applications should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

It Is Therefore Ordered That:

(1) Applications for refund from the funds remitted to the Department of Energy by Suburban Propane Gas Corporation pursuant to the Consent Order executed in March 21, 1986 may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision in the **Federal Register**.

George B. Breznay,

Director, Office of Hearings and Appeals.

Dated: September 4, 1987.

RF299–

DOE Use Only

Appendix—Suggested Format for Application for Suburban Propane Refund—KEF–0038

1. Name of Applicant during refund period:

Address during refund period: (November 1, 1973—October 31, 1978)

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[3] This figure is computed by dividing the $1,800,000 received from Suburban by the estimated 1,700,569,000 gallons of propane, butane, and natural gasoline sold by the firm during the consent order period.

2. To whom should refund check be made out?

Address to which check should be sent:

Contact Person:

Daytime Telephone: (_____)

3. (a) Type of Applicant:
Reseller/Retailer _____ End-user_____ Other_____

(b) If you are a reseller/retailer and the total Suburban refund requested by your firm and all affiliated entities exceeds $5,000, do you elect the $5,000 or 60 percent injury presumption for calculating your refund?

Yes

No

If you do not elect the $5,000 or 60 percent presumption of injury method, or if you are requesting a refund greater than $50,000, attach information on banks of unrecovered product costs as well as the required injury showing. (See Decision for details on the injury showing required.)

4. (a) Total gallonage for which refund is requested (from page 3):

(b) Product(s) (propane, butane, natural gasoline):

5. Was the product you bought Suburban-branded?

Yes

No

6. Were you supplied by Suburban directly?

Yes

No

If yes, provide Suburban customer number here:

If no to Items 5 and 6, attach an explanation of why you believe the product was sold by Suburban

7. Immediate supplier(s) during refund period name(s):

Address(es):

8. Have you ever been a party or are you currently a party in a DOE enforcement action or a private section 210 action? If yes, please attach an explanation.

Yes

No

9. Have you or a related firm filed any other application for refund or authorized any individual(s) other than those identified on this form to file an application on your behalf involving any Suburban product? If yes, attach an explanation.

Yes

No

10. Have you or a related firm ever filed any refund application(s) in any other refund proceeding(s) administered by this office? If yes, provide the name(s) of the proceeding(s) and your refund case number(s).

Yes

No

I swear (or affirm) that the information contained in this application and its attachments is true and correct to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the federal government may be subject to a jail sentence, a fine, or both, pursuant to 18 U.S.C. 1001. I understand that the information contained in this application is subject to public disclosure. I have enclosed a duplicate of this entire application form which will be placed in the OHA public reference room.

Date

Signature of Applicant

Title

Name of Applicant: _____ KEF-0038.

Monthly Purchase Volumes of (propane, butane, natural gasoline)	1973	1974	1975	1976	1977	1978
January	*********					
February	*********					
March	*********					
April	*********					
May	*********					
June	*********					
July	*********					
August	*********					
September	*********					
October	*********					
November						********
December						********
Yearly total						

Grand Total for This Product:
Gallons.

Note.—If your total for *all products* is less than 14,000 gallons, you will not be eligible to receive a refund.

[FR Doc. 87-21023 Filed 9-11-87; 8:45 am]

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Cases Filed During the Week of August 7 Through August 14, 1987

During the Week of August 7 through August 14, 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. A submission inadvertently omitted from an earlier list has 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.

George B. Breznay,

Director, Office of Hearings and Appeals.

September 4, 1987.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of August 7 through August 14, 1987]

Date	Name and location of applicant	Case No.	Type of submission
July 30, 1987	Jim Woods Marketing, Treece, KS	KEE-0148	Exception to the reporting requirements. If granted: Jim Woods Marketing would not be required to file form EIA-782B, "Resellers/Retailer Monthly Petroleum Product Sales Report."
Aug. 10, 1987	Cities Service Oil & Gas Corp., Washington, DC	KEG-0017	Petition for special redress. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R., Part 205, Subpart V, concerning cooperation agreements entered into with Economic Regulatory Administration.
Aug. 10, 1987	Citizen/Labor Energy Coalition, Washington, DC	KFA-0114	Appeal of an information request denial. If granted: The August 6, 1987 Freedom of Information Request Denial issued by the Office of Oil and Gas would be rescinded, and Citizen/Labor Energy Coalition would receive data based on information obtained from the form EIA-857.
Aug. 11, 1987	Boise Cascade Corp., Washington, DC	RR270-11	Request for modification/rescission in the stripper well petition proceeding. If granted: The July 14, 1987 Decision and Order (Case No. RR270-1291) issued to Boise Cascade Corporation would be modified regarding the firm's application for refund submitted as a Surface Transporter in the Stripper Well Litigation Proceeding.
Aug. 14, 1987	U.S.A. Petroleum Corp., Cincinnati, Ohio	KFA-0115	Appeal of an information request denial. If granted: The June 13, 1987 Freedom of Information Request Denial issued by the Economic Regulatory Administration would be rescinded, and U.S.A. Petroleum Corporation would receive access to all records responsive to their May 26, 1987 Freedom of Information Request.

REFUND APPLICATIONS RECEIVED

Date received	Name of refund proceedings/ name of refund applicant	Case No.
8/7/87	Amoco II/National Helium, Charter, Perry and Coline/ Tennessee.	RQ251-391, RQ3-392, RQ24-393, RQ183-394, RQ2-395
8/7/87-8/14/87	Crude Oil Applications Received.	RF272-3555-RF272-3921
8/12/87	Sussex Petroleum Co., Inc.	RF265-2520
4/30/86	Draper Energy Co., Inc.	RF225-10887
4/30/86	Draper Energy Co., Inc.	RF225-10888
7/21/86	Leighton Gas & Oil	RF225-10889
7/21/86	Kossuth Oil Co.	RF225-10890
6/24/87	Medford Petroleum, Inc.	RF265-2521
2/17/87	L.F. Phillips & Sons, Inc.	RF225-10894
2/17/87	L.F. Phillips & Sons, Inc.	RF225-10895
2/17/87	L.F. Phillips & Sons, Inc.	RF225-10896
1/15/87	Massoudi's Mobil Service	RF225-10893
8/13/87	Powl's Feed Service	RF265-2522
8/13/87	Powl's Feed Service	RF265-2523
8/13/87	Marvin C. Beck	RF298-1
8/13/87	Ted Reece	RF298-2
8/13/87	Glen D. Brown	RF298-3
8/13/87	Paul A. Heinzelmann	RF298-4
8/13/87	Darrel Rush	RF298-5
8/13/87	Max L. Watts	RF298-6
8/13/87	Thomas Marlatt	RF298-7
8/13/87	John Golitko	RF298-8
8/13/87	Larry E. Kunn	RF298-9
8/13/87	Mark Edward Dust	RF298-10
8/13/87	Bill Schumacher	RF298-11
8/13/87	Samuel N. Bales	RF298-12
8/13/87	Wayne Cowger	RF298-13
8/13/87	Ken Milleville	RF298-14
8/13/87	Ronald Weaber	RF298-15
8/13/87	Hartford Wood River Terminal	RF298-16
8/14/87	Ramona Oil Company, Inc.	RF157-4
4/28/87	Peoples Gas System	RF225-10897
8/14/87	J. Richard Myer	RF265-2524
8/10/87	Gene's Skelly Service	RF265-2525
8/14/87	Myer's Propane Gas Service	RF277-84
7/21/87	Ike's Oil Co.	RF225-10891
7/21/87	Danielson Oil Co.	RF225-10892
8/11/87	John P. Carroll	RF265-2519
8/11/87	Walter J. Mornes	RF139-172
8/10/87	Wallace Oil Co. of Texas	RF265-2516
8/10/87	Robert J. Lueken	RF265-2517
8/10/87	Robert J. Lueken	RF265-2518
8/10/87	Rising Sun Truck Stop	RF250-2731

[FR Doc. 87-21019 Filed 9-11-87; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders During the Week of July 6 Through July 10, 1987

During the week of July 6 through July 10, 1987, the decisions and orders summarized below were issued with respect to appeals and applications for 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

Arent, Fox, Kintner, Plotkin & Kahn, 7/7/87, KFA-0102

The law firm of Arent, Fox, Kintner, Plotkin & Kahn, on behalf of Centel Business Systems, filed an Appeal from a denial by the Manager of the Idaho Operations Office of a Request for Information which the firm had submitted under the Freedom of Information Act (FOIA). The firm sought access to a report which was created by a DOE contractor concerning a bid protest filed by Centel. In considering the Appeal, the DOE found that the report was properly withheld under Exemption 5 of the FOIA. Specifically, the DOE found that the report was a predecisional, deliberative document prepared for the use of the Idaho Operations Office in writing its own report on the Centel protest. The DOE further found that releasing the report would not be in the public interest because disclosure would discourage the contractor's ability and willingness to make honest and candid recommendations to the DOE. Accordingly, the Appeal was denied.

Gary Chaffins, 7/10/87, KFA-0100

Gary Chaffins filed an Appeal from a partial denial by the Manager for Administration of the San Francisco Operations Office, of a request submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that under Exemption 6 a former DOE employee and other individuals had a privacy interest in documents discussing his potential conflict of interest in working for the Lawrence Livermore National Laboratories. The DOE also found that there was a public interest in ensuring that the conflict of interest regulations were properly applied. In weighing these interests, the DOE found that no unwarranted invasion of privacy would occur in releasing redacted versions of these documents after deletion of information which would otherwise allow the identification of the individuals involved.

Motion for Discovery

Morrison Petroleum Company, Inc., 7/9/87, KRD-0350

Morrison Petroleum Company, Inc. (Morrison) filed a Motion for Discovery in connection with its Statement of Objections to the Proposed Remedial Order (PRO) which the Economic Regulatory Administration (ERA) issued to the firm on October 27, 1986. The DOE denied Morrison's request for contemporaneous construction discovery of § 211.67(e) and of 10 CFR 205.202 as it pertained to prohibiting the receipt of Small Refiner Bias Entitlements for crude oil refined pursuant to certain types of processing agreements. The DOE found that Morrison had not demonstrated that these regulations were so ambiguous that this discovery was relevant and necessary. The DOE also denied Morrison's request for documents regarding alleged representations made by Federal Energy Administration officials to a company doing business with Morrison, finding that Morrison had no right to rely on such representations. Finally, the DOE rejected Morrison's request for information concerning the ERA's alleged delay in issuing the PRO and the financial deterioration of Morrison's partner in the transactions at issue. The DOE found that such discovery would not provide information relevant to Morrison's laches defense. Accordingly, Morrison's Motion for Discovery was denied.

Interlocutory Order

Macmillan Oil Company, Inc., 7/10/87, KRZ-0062

On February 17, 1987, the Macmillan Oil Company, Inc. filed a Motion to Supplement the Record in a Proposed Remedial Order

proceeding (Case No. HRO–0122) with documentary material that the firm had presented in related settlement negotiations. The material which Macmillan seeks to provide relates to one of the central issues in dispute in the remedial proceeding, i.e., the calculation of the firm's product in inventory during the audit period covered by the Proposed Remedial Order. In granting the Motion, the DOE determined that admission of the material into the record could help resolve the disputed issue. The DOE also noted that the ERA had had an extended opportunity to review this material and had not objected to its inclusion into the record. The DOE concluded therefore that the enforcement proceeding would not be unduly delayed and no prejudice would result by granting the Motion.

Supplemental Order

Stripper Well Exemption Litigation, 7/7/87, KCX–0038

To implement a June 26, 1987 order of the U.S. District Court for the District of Kansas, the OHA ordered that the State Governments be deemed to have reimbursed the Federal Government for one-half of the Advance Fund made available to the States under the Stripper Well Settlement Agreement. The OHA also ordered that an additional $904,031.86 be paid to the States, since the court required a credit that was more than the amount necessary to fully repay one-half of the Advance Fund.

Refund Applications

American Steamship Company, 7/10/87, RF271–106

The Department of Energy (DOE) issued a Decision and Order approving an application submitted by the American Steamship Company (ASC) for a refund from the Rail and Water Transporters Escrow established as a result of the Stripper Well Settlement Agreement. ASC calculated its gallonage claims from purchase records for the years 1974–1981, and estimated its 1973 gallonage based on statistical data which indicated the amount of fuel consumed by each vessel on each voyage. The DOE will determine a per gallon refund amount and establish the amount of ASC's refund after it completes its analysis of all Rail and Water Transporter claims.

ANR Freight System, Inc., et al., 7/10/87, RF279–920 et al.

ANR Freight System, Inc. and nine other for-hire and private motor carriers filed Applications for 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 and ascertained that each of the applicants is an eligible surface transporter and no claim exceeded the gallons of petroleum products that the applicant consumed in vehicle operations. The total volume approved for refunds in this Decision and Order is 1,179,616,448 gallons.

Associated Food Stores, Inc., 7/9/87, RF270–1088

The DOE issued a Decision dismissing a company's claim for a Surface Transporter refund for failure to submit additional information to verify the firm's gallonage claim. The DOE had previously explained to the firm that an analysis of the claim could not be completed without the information and that as a result the claim would have to be dismissed if the information was not provided. Despite having received an extension of time to submit the data, Associated Food Stores did not provide the information to document its claim.

Clarke A. Phillips, Jr., 7/9/87, RF270–1113

The DOE issued a Decision approving a refund for Mr. Phillips, a bus operator, from the Surface Transporters Escrow. The refund will be based on purchases of 769,122 gallons of gasoline and motor oil during the Settlement Period.

GCO Minerals Co./Conoco, Inc., 7/6/87, RF254–3

The DOE issued a Decision and Order concerning an Application for Refund filed by Conoco, Inc., seeking a portion of the funds remitted by GCO Minerals Company pursuant to a consent order entered into between GCO and the DOE. Conoco purchased 32,466,000 gallons of propane, iso-butane, normal butane and natural gasoline from GCO during the consent order period. The DOE found that Conoco experienced a competitive disadvantage as a result of these purchases of iso-butane and normal butane from GCO. Accordingly, the DOE granted refunds equal to the volumetric refund amount for these two products. In the case of Conoco's purchases of propane and natural gasoline, the DOE found that Conoco had purchased a portion of these products at below market prices. Consequently, the refund amount for these two products was limited to an amount equal to the gallons of propane and natural gasoline that Conoco purchased at above market prices multiplied by the per gallon volumetric rate. The refund granted totals $89,624, representing $75,237 in principal plus $14,387 in interest.

Good Hope Refineries/Conoco, Inc., 7/9/87, RF189–6

The DOE issued a Decision and Order concerning an Application for Refund filed by Conoco, Inc., in the Good Hope Refineries special refund proceeding. *Good Hope Refineries*, 13 DOE ¶ 85,105 (1985). The DOE determined that Conoco was a spot purchaser of products from Good Hope and as such should be presumed not to have been injured by any alleged overcharges. Although the firm was informed of this preliminary determination, Conoco did not attempt to rebut the spot purchaser presumption. Accordingly, the refund application was denied.

Grace Distribution Service, Inc., W.R. Grace & Co., W.R. Grace & Co., 7/10/87, RF270–1099, RF270–2441, RF271–226

The DOE issued a Decision approving the Grace Distribution Service's Surface Transporter refund claim. The two claims for refunds submitted by its parent, W.R. Grace & Co., including a Rail & Water Transporter claim, were filed after the proceeding's December 15, 1986 deadline and were therefore dismissed as untimely. The Decision noted that had the two W.R. Grace claims been timely the Surface Transporter claim would have been considered together with the Grace Distribution claim and the Rail & Water claim would not have been considered because a firm and its affiliates may not receive refunds in both transportation proceedings.

Grand Trunk Western Railroad Co., Sabine Towing & Transportation Co., Prudential Lines, Inc., 7/10/87, RF271–71, RF271–75, RF271–77

The DOE issued a Decision and Order approving applications submitted by three companies for refunds from the Rail and Water Transporters (RWT) Escrow established as a result of the Stripper Well Settlement Agreement. OHA found that all three applicants had established that they were members of the RWT class, and had substantiated their purchases of the volumes of domestic petroleum products claimed in their respective applications. Accordingly, OHA approved all three applications. 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.

Greyhound Lines, Inc., 7/10/87, RF270–1236

The Department of Energy issued a Decision approving the application submitted by Greyhound Lines, Inc. (Greyhound) for a refund from the Surface Transporter Escrow, established as a result of the Stripper Well Agreement. Greyhound applied for a refund based on its purchases of motor gasoline and diesel fuel between August 19, 1973 and January 27, 1981. Greyhound demonstrated that it was a Surface Transporter and documented purchases of volumes of fuel in excess of the 250,000 gallon minimum established in the *Order Establishing Surface Transporter Escrow and Prescribing Provision for Administration of the Fund*, ¶ 16. Accordingly, the application was approved, and the documented volumes will be used to calculate the 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 gallonage approved in this Decision is 536,272,476.

Lawrence Neppl Trucking, Inc., et al., 7/6/87, RF270–2357, et al.

The DOE issued a Decision and Order in connection with its administration of the $10.75 million escrow fund established for Surface Transporters pursuant to the settlement agreement in the DOE Stripper Well Exemption litigation. The DOE approved the gallonages of refined petroleum products claimed by six Surface Transporters and will use those gallonages as a basis for the refunds that will ultimately be issued to the six firms. The total number of gallons approved in this decision is 15,844,714.

Lockheed Air Terminal, Inc./Aspen Airways, Inc., et al., 7/8/87, RF269–1, et al.

The DOE issued a Decision and Order concerning Applications for Refund filed by 23 end-users of aviation fuel purchased from

Lockheed Air Terminal, Inc. Each applicant provided documentation of its purchase volumes of Lockheed aviation fuel. In accordance with the procedures established in the Lockheed Special Refund Proceeding, the DOE determined that the applicants should receive refunds totaling $399,663, representing $239,507 in principal and $160,156 in interest.

Marathon Petroleum Company/Ride, Inc., 7/9/87, RF250–2460, RF250–2461

The DOE issued a Decision and Order concerning Applications for Refund filed by Ride, Inc. (Ride). Ride purchased products covered by a consent order that the agency entered into with Marathon Petroleum Company. It came to the attention of the DOE that Ride was related by common ownership to Morgan Oil Company, a firm which had previously received a refund in this proceeding. Therefore, Ride's claim was considered together with the previously granted claim, and Ride was granted a refund of $10,968, representing $9,928 in principal and $1,040 in interest.

Marathon Petroleum Company/Taylor Oil Company, 7/10/87, RF250–2195

The DOE issued a Decision and Order concerning an Application for Refund filed by Taylor Oil Company (Taylor) in the Marathon Petroleum Company special refund proceeding. Taylor requested a refund based on purchases which the firm and two subsidiaries made from Marathon. The DOE determined that since the three firms were under common control during the consent order period, Taylor should receive a refund based upon the total purchases of all three entities. Although the documented purchase volumes could have supported a greater refund, the DOE found that Taylor could not receive a total refund greater than $50,000 in principal, absent a demonstration of injury. Since Taylor declined to demonstrate injury, under the 35 percent presumption of injury the firm was granted a refund of $55,238, representing $50,000 in principal and 5,238 in interest.

Mobil Oil Corporation/T.A. Wisemaan, 7/10/87, F225–6493, RF225–10736, RF225–10848

The DOE issued a Decision and Order concerning Applications for Refund filed by T.A. Wiseman, President of T.A. Wiseman, Distributor, and by Stoel, Rives, Boley, Jones & Grey (Stoel, Rives) on Mr. Wiseman's behalf. A refund had been granted in response to the application filed by Stoel, Rives, but no Decision had been issued regarding the application filed by Mr. Wiseman. After considering the record, as expanded by the application filed by Mr. Wiseman, the DOE concluded that the application filed by Stoel, Rives contained a number of inaccuracies and that the decision granting a refund in response to that application should be rescinded. The DOE also concluded that the application filed by Mr. Wiseman contained accurate information. Accordingly, the DOE ordered Stoel, Rives to remit $267 for deposit into the Mobil escrow account and granted a refund of $206 ($169 in principal plus $37 interest) to Mr. Wiseman.

Oglebay Norton Co., et al., 7/9/87, RF271–6, et al.

The DOE issued a Decision and Order approving applications submitted by 12 companies for refunds from the Rail and Water Transporters (RWT) Escrow established as a result of the Stripper Well Settlement Agreement. OHA found that all 12 applicants had established that they were members of the RWT class, and had substantiated their purchases of the volumes of U.S. petroleum products claimed in their respective applications. Accordingly, OHA approved all 12 applications. The DOE will calculate 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.

Parker Towing Company, Inc., et al., 7/10/87, RF271–85, et al.

The Department of Energy (DOE) 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 applicant based its gallonage claim either on purchase records or estimates derived from those records. In the case of Turecamo Coastal and Harbor Towing Corporation (Turecamo) (RF271–104) the DOE found that the firm overstated its gallonage by claiming fuel purchases for all of 1973 and 1981, rather than for only those months covered by the Settlement Agreement. Turecamo's gallonage claim was accordingly adjusted and reduced by 149,158 gallons. 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.

Pinkett's Shore Lines, Inc., Canning Truck Service, Inc., Triboro Coach Corporation, 7/10/87, RF270–1181, RF270–1185, RF270–1204

The Department of Energy issued a Decision approving applications submitted by two bus companies and a trucking firm for refunds from the Surface Transporter Escrow, established as a result of the Stripper Well Agreement. Each applicant 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 had purchased specified volumes of fuel in excess of the 250,000 gallon minimum established in the *Order Establishing Surface Transporter Escrow and Prescribing Provision for Administration of the Fund*, ¶ 16. The Finkett's Shore Lines, Inc. and Triboro Coach Corp.'s claims were approved in full while Canning Truck Service, Inc.'s application was denied in part to eliminate the portion of the claim that was based upon heating oil purchases. The approved 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 11,181,787.

Rocky Mountain Moving & Storage, Inc., 7/6/87, RF270–1545

The Department of Energy (DOE) issued a Decision and Order approving 14 Applications for refund from the Surface Transporters Escrow, established as the result of the Stripper Well Settlement Agreement. Each claimant demonstrated that it was a Surface Transporter and documented its purchases of motor gasoline and diesel fuel. The DOE will determine a per gallon refund amount and establish the amount of each company's refund after it completes its analysis of all Surface Transporter claims.

Standard Oil Company (Indiana)/Kentucky, 7/7/87, RQ21–369

The DOE issued a Supplemental Order regarding a second-stage refund application filed by Kentucky and approved in 1985. *Standard Oil Co. (Indiana)/Kentucky*, 12 DOE ¶ 85,207 (1985). The 1985 Decision required Kentucky to submit a post-plan report within two years of the date of the Decision, specifying the manner in which the funds approved by OHA had been spent. On May 19, 1987, Kentucky submitted the post-plan report showing that the residual funds approved by OHA had been transferred to the Cabinet for Human Resources to be spent on low-income weatherization. Under the circumstances and in view of the fact that the program designated is an appropriate use of second-stage monies, the OHA approved the post-plan report.

Standard Oil Company (Indiana)/Montana, 7/6/87, RM21–68

The State of Montana filed a Motion for Modification concerning the use of a portion of the second-stage refund previously allotted to it from funds made available through a consent order with Standard Oil Company (Indiana). *Standard Oil Co. (Indiana)/Montana*, 13 DOE ¶ 85,150 (19____). Specifically, Montana requested permission to use the $11,792 of principal and interest previously remitted to it for the creation of a blueprint loan library in order to fund an Energy Efficient Housing Publication. The DOE found the proposed modification to be consistent with the guidelines established in *Standard Oil Co. (Indiana)*, 11 DOE ¶ 85,185 (1983) and that it will provide consumers of heating oil and future home-owners with useful energy conservation information. Accordingly, the Motion for Modification was approved.

Valleydale Packers, et al., 7/6/87, RF270–1340, et al.

The Department of Energy (DOE) issued a Decision and Order approving the volumes of 13 Applications for Refund from the Surface Transporters Escrow, established as the result of the Stripper Well Settlement Agreement. The DOE will determine a per gallon refund amount and establish the amount of each company's refund after it completes its analysis of all Surface Transporter claims.

Dismissals

The following submissions were dismissed:

Company Name and Case No.

Ambassador Cab, Inc.—RF270–410

Checker-American Cab Association—RF270–1711
Clean Machine, Inc.– HRO–0048, HRO–0049, KRD–0024, KRH–0024
Consolidated Cab Company—RF270–1710
McKesson Chemical Company—RF270–2268
Premium-ABC Company—RF270–1702
Radio Oil Company—RF250–2221
Thurman Distributors—RF238–44
Washington Cab Company—RF270–1709

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 IE–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.

George B. Breznay,

Director, Office of Hearings and Appeals.

September 4, 1987.

[FR Doc. 87–21020 Filed 9–11–87; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Decisions and Orders During the Week of July 13 Through July 17, 1987

During the week of July 13 through July 17, 1987, the decisions and orders summarized below were issued with respect to applications for 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.

Remedial Order

Tampimex Oil International, Ltd., 7/17/87; KRO–0430

The DOE issued a final Remedial Order to Tampimex Oil International, Ltd. (Tampimex). Although notified of the pendancy of this proceeding, Tampimex never filed a Notice of Objection or other response to the Proposed Remedial Order (PRO) that the Economic Regulatory Administration had issued to the firm on December 19, 1986. As a result, the DOE found that Tampimex was deemed to consent to the issuance of the PRO in final form. The DOE further found that the PRO established a prima facie case of violations of 10 CFR 212.186, 210.62(c) and 205.202 and liability therefor. However, the DOE modified the remedial provisions of the PRO to require Tampimex to remit the amount of overcharges, $689,997, plus appropriate interest to the DOE with instructions that the DOE will deposit the sum into a suitable DOE escrow account for ultimate disbursement pursuant to procedures set forth in 10 CFR Part 205, Subpart V.

Petition for Special Redress

Commonwealth of Kentucky, 7/14/87; KEG–0012

The DOE issued a Decision and Order concerning a Petition for Special Redress filed by the Commonwealth of Kentucky. Kentucky sought approval to utilize Stripper Well settlement monies to fund its Low Income Energy Assistance Trust Fund, which had been previously determined to fall outside the terms of the Stripper Well Settlement Agreement. After discussing the need for Stripper Well state plans to meet the objectives of energy conservation, energy efficiency, or renewable energy alternatives as well as the goals of timely restitution and overall balance, the DOE determined that Kentucky's program was unacceptable. The DOE found that a perpetual trust fund does not meet the standard of timeliness in restitution. Moreover the plan will not be balanced among the various sectors of injured consumers because the Commonwealth proposes to allocate all of its crude oil overcharge monies to the low-income sector. Accordingly, Kentucky's Petition for Special Redress was denied.

Request for Exception

Southeastern Oil, 7/16/87; KEE–0136

Southeastern Oil (Southeastern) filed an Application for Exception from the requirement that it file Form EIA–782B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report." In considering the request, the DOE found that Southeastern's reporting burden was not significantly different from that of other similarly-situated firms participating in the EIA–782B survey. Accordingly, exception relief was denied.

Motion for Discovery

Economic Regulatory Administration, 7/13/87; KRD–0023

The Economic Regulatory Administration (ERA) filed a Motion for Discovery relating to an Amended Proposed Remedial Order (APRO) which the ERA issued to Texaco Inc. (Texaco) on October 31, 1986. In the APRO, the ERA seeks to have Texaco perform a self-audit of its compliance with the crude oil producer price regulations, 10 CFR Part 212, Subpart D, in sales of crude oil produced from specified properties and refund any overcharges found to exist. In the Motion for Discovery, the ERA sought Texaco's responses to nineteen interrogatories and production of documents relating to objections raised by Texaco in the proceeding that: (i) There is no factual basis for assuming the existence of overcharges on the properties subject to the APRO self-audit, and (ii) the self-audit would be unduly burdensome. In considering the ERA's motion, the DOE determined that the discovery sought by the ERA relating to the first issue would not render evidence which is relevant or necessary, but that the ERA should be granted limited discovery relating to the self-audit burden which may be incurred by Texaco. Accordingly, the ERA's Motion for Discovery was granted in part.

Refund Applications

Aero Trucking, Inc., 7/17/87; RF270–1513

The Department of Energy (DOE) issued a Decision and Order in connection with its administration of the $10.75 million escrow fund established for surface transporters pursuant to the settlement agreement in the DOE Stripper Well Exemption litigation. Aero's entire claim was based on fuel purchased by the owner-operators of trucks leased by Aero. The DOE held that carriers may not receive a refund for fuel used by leased trucks where the owner-operators of those trucks were contractually responsible for fuel purchases. Consequently, Aero's claim was denied.

Beacon Oil Company/ Golden Gate Petroleum Company, 7/17/87; RF238–63

The DOE issued a Decision and Order concerning an Application for Refund filed on behalf of the Golden Gate Petroleum Company (Golden Gate), a reseller of Beacon Oil Company petroleum products. Based upon its purchases of diesel fuel and gasoline, Golden Gate applied for a refund under the procedures outlined in *Beacon Oil Co.*, 14 DOE ¶ 85,011 (1986), as modified by *Beacon Oil Co.*, 14 DOE ¶ 85,509 (1986), governing the disbursement of settlement funds received from Beacon pursuant to a December 17, 1979 Consent Order. According to those procedures, an applicant whose total refund, *including* previous credits received but not passed through to its customers in the form of reduced prices, exceeds $5,000 must demonstrate that it was injured as a result of its purchases from Beacon. In the case of Golden Gate, the DOE found that during 1980, Golden Gate had received a full refund for its Beacon gasoline purchases in the form of credit refunds totaling $244,080. Thus the request for a refund based upon the gasoline purchase was denied. On the basis of its purchases of Beacon diesel fuel during the consent order period, Golden Gate could have received a refund of $45,655. However, having received refunds in excess of the $5,000 small claims threshold in order to receive a further refund Golden Gate would have had to demonstrate injury with respect to its diesel fuel purchases or qualify for a small claims refund of $5,000 by showing that it passed through to its customers the previous motor gasoline credit refunds. Golden Gate did neither and the Application for Refund was denied.

C.C. Jones, Inc., et al., 7/17/87; RF270–299, 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 five trucking companies which operated as common carriers and one bus company. The DOE will use those volumes as the basis for the refunds that will ultimately be issued to the seven firms. Because the amount of a surface transporter applicant's refund will depend upon the total number of gallons that are ultimately approved, the actual amounts of the seven firms' refunds will be determined at a later date.

Chemical Leaman Tank Lines, Inc., et al., 7/13/87; RF270–885, et al.

Chemical Leaman Tank Lines, Inc. and six other for-hire and private motor carriers filed Applications for Refund, seeking funds 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 and ascertained that each of the applicants is an eligible surface transporter, and that no claim exceeded the gallons of petroleum products that the applicant consumed in vehicle operations. The total volume approved in this Decision and Order is 332,967,900 gallons.

City Market, Inc., et al., 7/15/87; RF270–1339, et al.

The Department of Energy (DOE) issued a Decision and Order approving the volumes of 17 Applications for Refund from the Surface Transporters Escrow, established as the result of the Stripper Well Settlement Agreement. The DOE will determine a per gallon refund amount and establish the amount of each company's refund after it completes its analysis of all Surface Transporter claims.

Dorchester Gas Corporation/Air Speed Oil Company, 7/13/87, RF253–5

The DOE issued a Decision and Order concerning an Application for Refund filed on behalf of Air Speed Oil Co. in the Dorchester Gas Corporation special refund proceeding. Air Speed demonstrated that it purchased 17,321,287 gallons of motor gasoline directly from Dorchester during the consent order period. Because the applicant limited its claim to $5,000, it was not required to demonstrate injury. Accordingly, a small-claims refund of $5,000 in principal and $1,429 in interest was approved for Air Speed.

Fleet Carrier Corporation, M&G Convoy, Inc., Commercial Carriers, Inc., Janesville Auto Transport Co., Complete Auto Transit, Inc., 7/16/87, RF270–1525, RF270–1526, RF270–1527, RF270–1528, RF270–1529

The Department of Energy (DOE) issued a Decision and Order to five subsidiaries of Ryder System in connection with the administration of the $10.75 million escrow fund established for surface transporters pursuant to the settlement agreement in the DOE Stripper Well Exemption litigation. After adjusting the claims to eliminate gallons claimed but not actually purchased by Ryder, the DOE approved the claims and will use the adjusted gallonages as a basis for the refund that will ultimately be issued to the eight firms. 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 amounts of the firms' refund will be determined at a later date. The total number of gallons approved in this Decision is 223,794,832.

Freightway Corporation, et al., 7/16/87, RF270–1454, et al.

The Department of Energy (DOE) issued a Decision and Order in connection with its administration of the $10.75 million escrow fund established for surface transporters pursuant to the settlement agreement in the DOE Stripper Well Exemption litigation. The DOE approved, with minor adjustments, the gallonages of refined petroleum products claimed by eight transportation companies and will use those gallonages as a basis for the refund that will ultimately be issued to the eight firms. 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 amounts of the firms' refund will be determined at a later date. The total number of gallons approved in this Decision is 78,071,876.

Gary Energy Corporation/Westport Energy Corporation, Northwest Pipeline Corporation/Westport Energy Corporation, 7/14/87, RF47–22, RF116–10

The DOE issued a Supplemental Decision and Order concerning the disbursement of an escrow account established from refunds previously approved for Westport Energy Corporation in two special refund proceedings. Westport's refunds in the Gary Energy Corporation and Northwest Pipeline Corporation proceedings had been placed into an escrow account pending resolution of a DOE enforcement proceeding involving Westport. Pursuant to a bankruptcy reorganization plan approved by the firm's creditors, including the DOE, the Decision directed the transferal of 35% of the principal and interest in the account to another account designated for the receipt of the DOE's portion of the bankruptcy settlement funds. The Decision also directed the disbursement of the remaining 65% of the principal and interest in the account to the Counsel for Westport, for distribution among the firm's creditors.

Getty Oil Company/A&M Service, Inc., et al., 7/15/87, RF265–1169, et al.

The DOE issued a Decision and Order concerning 57 Applications for Refund filed by purchasers of products covered by a consent order that the DOE entered into with Getty Oil Company. Each applicant submitted information indicating the volume of its Getty purchases. None of them requested or was entitled to a refund greater than the $5,000 small claims refund amount. The amount of the refunds approved in this Decision is $220,036, representing $111,150 in principal and $108,886 in accrued interest.

Getty Oil Company/Amelon's Getty Service, et al., 7/17/87, RF265–1393, et al.

The DOE issued a Decision and Order concerning 52 Applications for Refund filed by purchasers of products covered by a consent order that the DOE entered into with Getty Oil Company. Each applicant submitted information indicating the volume of its Getty purchases. None of them requested or was entitled to a refund greater than the $5,000 small claims refund amount. The amount of the refunds approved in this Decision is $172,667, representing $86,845 in principal and $85,822 in accrued interest.

Green Bay and Western, et al., 7/17/87, RF271–3, et al.

The DOE issued a Decision and Order approving applications submitted by 11 companies for the refunds from the Rail and Water Transporters (RWT) Escrow established as a result of the Stripper Well Settlement Agreement. OHA found that all 11 claimants had established that they were members of the RWT class, and had substantiated their purchases of the volumes of U.S. petroleum products claimed in their respective applications. Accordingly, OHA approved all 11 applications. 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 RWT claims.

Gulf Oil Corporation/Fulton Industrial Gulf Service, et al., 7/15/87, RF225–3632, et al.

The DOE issued a Decision and Order concerning five Applications for Refund filed by retailers and resellers of Gulf refined petroleum products. The claimants applied for a refund based on the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984). After examining the evidence and supporting documentation submitted by the applicants, the DOE concluded that the claimants should receive refunds totalling $21,725, representing $17,323 in principal plus $4,402 in interest.

Hare Cartage Inc., 7/17/87, RF270–2482

The DOE modified a Decision and Order it had issued 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 Decision and Order reduced the number of gallons approved for Hare Cartage, Inc. to eliminate volumes of petroleum products not used in surface transportation. The adjusted volumes will form the basis for the refund that will ultimately be issued to the firm. 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 firm's refund will be determined at a later date.

Herman Bros. Inc., et al., 7/16/87, RF270–291 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 Decision approved the purchase volumes of refined petroleum products claimed by six trucking companies which operated common carriers and one company which operated a private fleet of trucks for over-the-road transportation. The DOE will use those volumes as the bases for the refunds that will ultimately be issued to the seven firms. 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 seven firms' refunds will be determined at a later date.

La Porte Transit Co., Inc., 7/14/87, RF270–1141

The DOE issued a Decision approving a trucking company for a Surface Transporter refund based on purchases of 2,772,336 gallons of gasoline and diesel fuel during the Settlement Period.

Marathon Petroleum Company/Risser Oil Corporation Pace Petroleum Corporation, 7/16/87, RF250–1294, RF250–1295

The DOE issued a Decision and Order concerning two Applications for Refund filed in the Marathon Oil Company special refund proceeding on behalf of the Risser Oil and Pace Petroleum Corporations. Each firm documented separately its purchases of motor gasoline from Marathon during the period covered by the refund proceeding. However, because the firms enjoy common ownership, their two claims were consolidated for purposes of analysis. Because the total, combined refund did not exceed the $5,000 small claims threshold, a detailed showing of injury was not necessary. The decision approved a refund of $1,182, representing $1,068 in principal and $114 in interest.

Marathon Petroleum Company/Storey Oil Company, Inc., 7/13/87, RF250–2019, RF250–2020

The DOE issued a Decision and Order granting an Application for Refund filed by Storey Oil Company, Inc. (Storey) in connection with the Marathon Petroleum Company special refund proceeding. Storey did not request a refund of more than $5,000, and was therefore not required to submit a detailed showing of injury. However, Storey is a respondent in an enforcement proceeding currently before the Office of Hearings and Appeals. As a result, pending the outcome of the enforcement proceeding, the DOE determined that the refund should be deposited in a separate interest-bearing account on behalf of Storey. The refund totals $566, representing $511 in principal and $55 in interest.

Mobil Oil Corporation/Bissell Distributing Company, et al., 7/14/87, RF225–6511, et al.

The DOE issued a Decision granting 16 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers and resellers of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $16,728, representing $13,640 in principal plus $3,088 in interest.

Mobil Oil Corporation/Dawson Oil & Transport et al., 7/14/87, RF225–10665 et al.

The DOE issued a Decision granting 7 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers and resellers of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The Doe granted refunds totalling $21,056, representing $17,169 in principal and $3,887 in interest.

N & B Express, Inc., Southwestern Film Service, Lewis & Michael, Inc., Country Home Bakeries, 7/14/87, RF270–2267, RF270–2276, RF270–2306, RF270–2322

The DOE issued a Decision and Order concerning four Applications for Refund from the $10.75 million Surface Transporters Escrow fund established pursuant to the Settlement Agreement in the DOE Stripper Well Exemption Litigation. Each applicant demonstrated that it operated motor vehicles during the Settlement Period and that it was either a "for hire" carrier or a private fleet operator for purposes of this proceeding. In addition, each applicant documented purchase volumes in excess of the 250,000 gallon minimum prescribed in the Order establishing the Surface Transporters Escrow. One claim was adjusted to exclude heating oil purchases and another to exclude non-Settlement Period purchases. Accordingly, all four Applications were approved, and the respective volumes will be used to calculate each company's final refund. The total number of gallons approved in this Decision is 6,973,136.

Oats, Incorporated, et al., 7/13/87, RF270–1544, et al.

The Department of Energy (DOE) issued a Decision and Order approving the volumes of 26 Applications for Refund from the Surface Transporters Escrow, established as the result of the Settlement Agreement in the Stripper Well Exemption Litigation. The DOE will determine a per gallon refund amount and establish the amount of each company's refund after it completes its analysis of all Surface Transporter claims.

Oceana Terminal Corporation, Pacer Oil Company of Florida, Inc., Pasco Petroleum Company, Inc., Parman Oil Corporation/Kimberly-Clark, et al., 7/16/87, RF243–3, et al.

The DOE issued a Decision and Order granting Applications for Refund filed by Kimberly-Clark, Wasserman Realty Service, Carse Oil Company/Ideal Gas, Brennan Petroleum Company, Kaibab Industries/Whiting Stations, Quick Petroleum Company and Birmingham-Nashville Express. Each applicant sought a refund from one of the escrow accounts involving the Cibro, Pacer, Pasco and Parman consent order funds. Three applicants were end-users and the remaining four either retailers or resellers. All claims were less than the small claims threshold of $5,000. Accordingly, the applicants were granted refunds totalling $20,341, representing $10,612 in principal and $9,729 in accrued interest.

Sid Richardson Carbon and Gasoline Company and Richardson Products Company/Ace Gas, Inc., 7/16/87, RF26–46

The DOE issued a Decision and Order to Ace Gas, Inc., in response to its Application for Refund filed in the Sid Richardson Carbon and Gasoline Company and Richardson Products Company (Richardson) special refund proceeding. In the application the firm submitted detailed proof of injury in connection with its purchases from Richardson, using a three-step competitive disadvantage methodology. After fully considering the claim, the DOE determined that the firm should receive a refund of 100 percent of its allocable share based upon all of its purchases during the consent order period and granted a refund of $91,703, representing $47,175 in principal plus $4,528 in interest.

Standard Oil Co. (Indiana)/Washington, et al., 7/16/87, RQ251–368, et al.

The DOE issued a Decision approving second-stage refund plans filed by the States of Washington and Iowa. In its application, Washington proposed to spend its entire share of Standard Oil Co. (Indiana) funds, excluding 4% reserved for federally-recognized Indian Tribes in the State, for traffic light signal synchronization. Iowa proposed to use its share, together with second stage monies from Coline Gasoline Corp., Vickers Energy Corp., and OKC Corp., to fund weatherization of low-income housing as well as various, unspecified projects associated with the State's Institutional Conservation Program (ICP), State Energy Conservation Program (SECP), and Energy Extension Service (EES). The DOE found that Washington's proposed traffic light synchronization project would reduce motorists' consumption of motor gasoline, thereby providing indirect restitution to injured consumers of refined petroleum products. Accordingly, Washington was granted a refund of $96,006, representing $89,101 principal and $6,905 interest for the program. In considering the Iowa submission, the DOE approved the proposal to weatherize low-income residences in the State since that would reduce energy consumption. However, the DOE found that allocating second-stage refund monies to unidentified ICP, SECP, and EES projects conferred too much discretion regarding the manner in which the funds would be spent. Accordingly, Iowa was granted $730,745 ($666,409 principal plus $64,336 interest) in Amoco II, Coline Gasoline Corp., and OKC Corp. funds for the State's weatherization program and was encouraged to submit a more specific plan for use of the remaining Amoco II and Vickers Energy Corp. funds.

Sun Transport Inc., 7/13/87, RF271–142

The Department of Energy (DOE) issued a Decision and Order dismissing an application submitted by Sun Transport, Inc. for a refund from the Rail and Water Transporters Escrow (RWT) established as a result of the Stripper Well Settlement Agreement. The DOE found that Sun was an affiliate of Sun Refining Company, a refiner which had previously received a refund from the Refiners Escrow. One of the prerequisites for an RWT refund is the waiver of payment from any of the seven other escrow accounts created in the Settlement Agreement. Such a waiver is also binding on the affiliates of a company which had previously received a payment from one of the escrows. Since the parent firm had waived any right to a RWT refund the DOE found that Sun Transport was ineligible for a RWT refund.

Westside Baber Cab Co., et al., 7/17/87, RF270–445, et al.

The DOE issued a Decision and Order in connection with its administration of the $10.75 million escrow fund established for surface transporters pursuant to the settlement agreement in the DOE Stripper Well Exemption Litigation. The DOE approved the gallonages of refined petroleum products claimed by four companies and will use those gallonages as bases for the refunds

that will ultimately be issued to the four firms. 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 amounts of the four firms' refunds will be determined at a later date.

Dismissals

The following submissions were dismissed:

Company Name and Case No.

Beacon Oil Co./Redwood Oil Co.—RF238–43
Elston Kimbell Mobil—RF225–6485
Hicks Mobil Service—RF225–6583, RF225–6599
Hughes Service Center—RF225–514
Jim's Mobil—RF225–8717
Kimbell-Elston—RF225–6579
Olson Flying Service, Inc.—RF225–6529

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 IE–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.

George B. Breznay,

Director, Office of Hearings and Appeals.

September 4, 1987.

[FR Doc. 87–21021 Filed 9–11–87; 8:45 am]

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Issuance of Decisions and Orders During the Week of July 27 Through July 31, 1987

During the week of July 27 through July 31, 1987, the decisions and orders summarized below were issued with respect to applications for 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.

Petition for Special Redress

California, 7/28/87, KEG–0013

The DOE issued a Decision and Order concerning a Petition for Special Redress submitted by the State of California. The State sought approval to use Stripper Well funds for two projects which the DOE's Assistant Secretary for Conservation and Renewable Energy held to be inconsistent with the terms of the Stripper Well Settlement Agreement. The DOE approved the State's proposal to use $29.555 million to fund a group of 22 public transportation projects but disapproved the State's proposal to use $5.445 million to supplement the State Transit Assistance (STA) program. The DOE determined that the 22 public transportation projects would result in increased energy conservation within the State, would have a restitutionary impact on the driving populace of the State, and are part of a large, well-balanced restitutionary program. Furthermore, the DOE found that the programs were permissible under both the 1981 Chevron consent order and OHA precedent. The DOE found, however, that the STA program, as described in the Petition, is inconsistent with the Settlement Agreement.

Motion for Evidentiary Hearing

Apache Oil Company, Inc., 7/29/87, KRH–0001

Apache Oil Co., Inc. (Apache) filed a Motion for Evidentiary Hearing in connection with a Proposed Remedial Order (PRO) issued to it by the Economic Regulatory Administration (ERA) on April 30, 1985. In the PRO, the ERA alleges that Apache charged prices for regular, premium and unleaded motor gasoline that were in excess of the maximum lawful selling prices (MLSPs) set forth in 10 CFR 212.93, as amended. The ERA imputed MLSPs for Apache since the firm claimed its records for May 15, 1973 were destroyed by flood and since Apache failed to reconstruct its May 15 selling prices. The ERA reconstructed MLSPs for Apache based on two classes of purchaser, retail and wholesale, for each of the three grades of motor gasoline, using data from Ada Oil Co. (Ada), a firm which ERA designated as Apache's nearest comparable outlet. In response to a Special Report Order (SRO) on May 29, 1980, Apache had maintained that it sold products both at the retail and wholesale levels on May 15, 1973. However, Apache now maintains that it sold products only at the retail level in May 1973, and to new markets after that date.

In its Motion for Evidentiary Hearing, Apache sought to present testimony concerning: (i) Its classes of purchaser on May 15, 1973 and the allegedly new markets to which it sold products after that date; and (ii) the comparability of Apache and Ada. The OHA determined that the classes of purchaser the firm maintained on May 15, 1973 and after that date were material and relevant issues which were disputed by the parties. With respect to the second issue, the DOE determined that Apache could present witnesses and documents to demonstrate that Apache and Ada were not comparable firms. In addition, to prevail in the case, Apache was directed to present an alternative firm which was more comparable to it than Ada, since the firm failed to calculate its MLSPs or to produce records showing its MLSPs. The DOE also determined that Apache may present evidence to show that the methods used by the ERA to calculate its MLSPs were unreasonable or injurious to the firm. Finally, Apache was directed to identify the backgrounds of the witnesses it proposed to introduce at the hearing and to summarize the facts about which they would testify.

Refund Applications

Arrowhead Drinking Water Co. et al., 7/28/87, RF270–1262 et al.

The Department of Energy (DOE) issued a Decision and Order approving the volumes of eight Applications for Refund from the Surface Transporters Escrow established as the result of the Stripper Well Settlement Agreement. The DOE will determine a per gallon refund amount and establish the amount of each company's refund after it completes its analysis of all Surface Transporter claims.

Association of Independent Taxi Operators, Inc., 7/27/87, RF270–1134

The DOE issued a Decision denying a taxicab association's claim for a Surface Transporter refund. The Association provided support services to its members and operated a filling pump for its members' convenience. However, the members themselves paid for the fuel. Since the Association acted as a reseller it was not a member of the class for which the escrow was established.

The DOE rejected the Association's proposal that it receive the refund and pass it through to its members. Members of the Association had not signed claim forms agreeing to be bound by the terms of the Settlement. In addition, granting a refund claim submitted on behalf of a class or trade association would not accomplish direct restitution. The DOE distinguished the role that the Association sought to assume (as claimant) from that which other associations have assumed (as representative).

Bisom Truck Line, Inc. et al., 7/27/87, RF270–434 et al.

The DOE issued a Decision and Order in connection with its administration of the $10.75 million escrow fund established for surface transporters pursuant to the settlement agreement in the DOE stripper well exemption litigation. The DOE approved the gallonages of refined petroleum products claimed by 26 companies and will use those gallonages as bases for the refunds that will ultimately be issued to the 26 firms. 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 amounts of the 26 firms' refunds will be determined at a later date.

Getty Oil Company/Aaron's Auto Service et al., 7/27/87, RF270–2063 et al.

The DOE issued a Decision and Order concerning 54 Applications for Refund filed by resellers or retailers of products covered by a consent order that the agency entered into with Getty Oil Company. Each applicant submitted information indicating the volume of its Getty purchases. None of them was entitled to a refund greater than the $5,000 small claims refund amount. The sum of the refunds approved in this Decision is $192,902, representing $97,022 in principal and $95,880 in accrued interest.

Getty Oil Company/Battan's Getty et al., 7/29/87, RF265–2274 et al.

The DOE issued a Decision and Order concerning 49 Applications for Refund filed by resellers or retailers of products covered by a consent order that the agency entered into with Getty Oil Company. Each applicant submitted information indicating the volume of its Getty purchases. None of them was entitled to a refund greater than the $5,000 small claims refund amount. The sum of the refunds approved in this Decision is $194,446,

representing $97,798 in principal and $96,648 in accrued interest.

Holmes Transportation, Inc., 7/30/87, RR270-3

Holmes Transportation, Inc. filed a Motion for Reconsideration of the dismissal of its Application for Refund from the Surface Transporters Escrow Fund. The firm's application was dismissed because it was filed after the December 8, 1986 filing deadline. In considering the Holmes Motion, the DOE pointed out that it was expected to exercise its best efforts to complete disbursement of the Surface Transporters Escrow Fund by February 7, 1988. The DOE found that since granting extensions from the deadline might result in the receipt of more applications than it could expect to analyze in the available time period, extensions should only be granted in compelling circumstances. In its application, Holmes stated that the additional time was necessary because it had difficulty in obtaining the records needed to file an application and because it did not have the personnel necessary to gather necessary information. The DOE found that these did not constitute compelling circumstances warranting the approval of an extension of time. Accordingly, the Holmes motion was denied.

Instant Air Freight Company, et al., 7/28/87, RF270-1011, et al.

The DOE issued a Decision and Order to eight firms that applied for refunds from the $10.75 million Surface Transporters Escrow fund established pursuant to the Settlement Agreement in the DOE Stripper Well Exemption Litigation. Each applicant demonstrated that it operated motor vehicles during the Settlement Period and that it was either a "for hire" carrier or a private fleet operator for the purposes of this proceeding. In addition, each applicant demonstrated that it purchased a certain volume of eligible petroleum products above the 250,000 gallon minimum prescribed in the Order establishing the Surface Transporters Escrow. Heating oil volumes were subtracted from one claim, and volumes used in garbage trucks' power take-off units were added to another claim. Once these adjustments were made, all eight Applications were approved. The respective volumes will be used to calculate each company's final refund. The total number of gallons approved in this Decision is 8,959,568.

John R. Trucking Co., Inc. et al., 7/30/87, RF270-588 et al.

The DOE issued a Decision and Order in connection with its administration of the $10.75 million escrow fund established for surface transporters pursuant to the settlement agreement in the DOE stripper well exemption litigation. The DOE approved the gallonages of refined petroleum products claimed by five trucking companies and will use those gallonages as a basis for the refund that will ultimately be issued to the five firms. 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 amounts of the five firms' refunds will be determined at a later date.

Langer Transport Corp., 7/29/87, RF270-1084

The DOE issued a Decision evaluating a trucking company's claim for a Surface Transporter refund. The company's claim included volumes which the company purchased and volumes which the company's independent contractors (owner operators) purchased. The company submitted a plan outlining its intention to pass refunds through to its owner operators.

The DOE approved the company only for its own purchases. The owner operators had not signed claim forms agreeing to be bound by the terms of the Settlement. Since each owner operator's purchase volumes were lower than the minimum threshold, they were not members of the class for which the Surface Transporters Escrow was established. In addition, granting a refund to the carrier would needlessly complicate the simple alternative refund proceeding available to owner operators.

Marathon Petroleum Company/Allied Oil Co., et al., 7/31/87, RF250-2672 et al.

Allied Oil Company, Tresler Oil Company, Ashland Petroleum Company, and General Oils Co., Inc., resellers of petroleum products, each filed an Application for Refund, seeking a portion of the funds remitted by Marathon Petroleum Company, pursuant to a consent order that Marathon entered into with the Department of Energy. Because all of the applicants are affiliated companies of Ashland Oil, Inc., the DOE combined their claims for refund evaluation purposes. Since none of the applicants attempted to demonstrate injury, the DOE granted 35% of the volumetric share of the applicants in accordance with the presumption of injury established in the *Marathon* special refund proceeding. The principal refund amount granted in this Decision was $6,453.83, plus $707.51 in accrued interest.

Mobil Oil Corp./Adirondack Central School et al., 7/27/87, RF225-8520 et al.

The DOE issued a Decision and Order granting 48 applications of end-users and retailers requesting refunds from the Mobil Oil Corporation consent order fund. Each applicant presented evidence that it purchased refined petroleum products from Mobil during the consent order period. The end-user applicants purchased product both directly and indirectly supplied by Mobil. According to the methodology set forth in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985) (*Mobil*), each applicant was found to be eligible for a refund from the Mobil consent order fund based on the volume of its purchases times 100 percent of the volumetric refund amount if it purchased product directly from Mobil, and times 60 percent of the volumetric refund amount if it purchased motor gasoline indirectly from Mobil. End-users who purchased Mobil products other than motor gasoline indirectly received the full volumetric refund amount. Six of the applications were filed by retailers supplied directly by Mobil. According to the presumptions set forth in *Mobil*, these applicants were eligible for a refund from the Mobil consent order fund based on the volume of their motor gasoline purchases times 30 percent of the volumetric refund amount. Retailers of products other than motor gasoline received the full volumetric refund amount. The refunds approved in the Decision totaled $49,921.

Mobil Oil Corporation/Bob Anderson et al., 7/28/87, RF225-3785 et al.

The DOE issued a Decision granting 31 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers, resellers, and end-users of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $54,830 ($44,708 principal plus $10,122 interest).

Moore Business Forms & Systems, Reeves Transportation Company, Joseph Cory Delivery Services, Inc., 7/28/76, RF270-1188, RF270-1190, RF270-1195

The Department of Energy issued a Decision approving applications for refunds from the Surface Transporter Escrow, established as a result of the Stripper Well Agreement, which were submitted by two companies that operated a private fleet and a trucking company. Each applicant 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 three 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 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 11,799,398.

Pulley Freight Lines, Inc., Floyd & Beasley Transfer Co., Inc., Churchill Truck Lines, Inc., 7/28/87, RF270-1032, RF270-1039, RF270.1071

The DOE issued a Decision and Order concerning three Applications for Refunds from the $10.75 million Surface Transporters Escrow fund established pursuant to the Settlement Agreement in the DOE Stripper Well Exemption Litigation. Each applicant demonstrated that it operated motor vehicles during the Settlement Period and that it was a "for hire" carrier for the purposes of this proceeding. In addition, each applicant demonstrated that it purchased a certain volume of eligible petroleum products above the 250,000 gallon minimum prescribed in the Order establishing the Surface Transporters Escrow. Accordingly, all three Applications were approved, and the respective volumes will be used to calculate each company's final refund. The total number of gallons approved in this Decision is 68,045,827.

R.A.C. Holding, Inc, 7/27/87, RF270-1182

The Department of Energy issued a Decision denying the application submitted by R.A.C. Holding, Inc. (R.A.C.) for a refund from the Surface Transporter Escrow established as a result of the Stripper Well

Agreement. R.A.C. applied for a refund based on its purchases of motor gasoline between August 19, 1973 and January 27, 1981. R.A.C. is a vehicle rental company and the definition of "Surface Transporter" specifically excludes car rental companies. *See Order Establishing Surface Transporters Escrow,* ¶ 16.

Rocky Ford Moving Vans et al., 7/30/87, RF270–3 et al.

The Department of Energy (DOE) issued a Decision and Order approving 30 Applications for Refund from the Surface Transporters Escrow, established as the result of the Stripper Well Settlement Agreement. The applicants, all "for hire" trucking companies or private fleets of trucks, applied for refunds based on purchases of diesel fuel, motor gasoline, motor oil, and lubricating oils between August 19, 1973 and January 27, 1981. The DOE's Decision approved 29 of the companies purchase volumes as set forth in their applications and one company's adjusted volumes. The DOE will determine a per gallon refund amount and establish the amount of each company's refund after it completes its analysis of all Surface Transporter claims.

Stang Enterprises, Inc. et al, 7/31/87, RF270–391 et al.

The DOE issued a Decision and Order in connection with its administration of the $10.75 million escrow fund established for surface transporters pursuant to the settlement agreement in the DOE stripper well exemption litigation. The DOE approved the gallonages of refined petroleum products claimed by 20 companies and will use those gallonages as bases for the refunds that will ultimately be issued to the 20 firms. 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 amounts of the 20 firms' refunds will be determined at a later date.

Dismissals

The following submissions were dismissed:

Name and Case No.

General Electric Co.—RF225–8123, RF225–8124, RF225–8125.
Holland Industries, Inc.—RF270–1149.
Irving Eugene King—RF270–2321.
Salt River Project, Agricultural Improvement and Power District—RF272–368.
Trigon Exploration, Inc.—KRO–0110.
Yellow Cab Company—RF270–2351.

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.

September 4, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 87–21022 Filed 9–11–87; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

September 4, 1987.

Background

Notice is hereby given of final approval of proposed information collection by the Board of Governors of the Federal Reserve System under OMB delegated authority as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public). The Board is not publishing notice of the proposed collection for public comment because to do so would substantially interfere with the Board's duty under section 4(f)(6) of the Bank Holding Company Act, as amended, 12 U.S.C. 1843(f)(6). That section provides that nonbanking companies that controlled a nonbank on March 5, 1987, must file a report with the board by October 9, 1987, in order to qualify for certain grandfather privileges. As the report must be filed within 60 days of the amended statute taking effect, the Board could not go through the normal notice and comment procedures and at the same time provide meaningful guidance on the report to the prospective respondents.

FOR FURTHER INFORMATION CONTACT:

J. Virgil Mattingly, Jr., Deputy General Counsel, Legal Division (202–452–3430), Board of Governors of the Federal Reserve System, Washington, 20551;

Federal Reserve Board Clearance Officer—Nancy Steele—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington 20551 (202–452–3822).

OMB Desk Officer—Robert Fishman—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202–395–7340)

Report Title: Report by Certain Companies Controlling Nonbank Banks.

Agency form number: FR 3040.

OMB docket number: 7100–0225.

Frequency: One-time.

Reporters: Nonbanking companies that owned a nonbank bank as of March 5, 1987.

Annual reporting hours: 240.

A significant number of small entities will not be substantially affected.

General description of report:

A nonbanking company that controlled a nonbank on March 5, 1987, that wishes to establish its qualifications for certain grandfather privileges must file by October 9, 1987, the name and address of the company, the name and address of each bank the company controls, and a description of each bank's activities.

There is no report form, as such, but the Board has published guidelines for those who file the report. A copy of the guidelines is available from the Board or from each Federal Reserve Bank.

Board of Governors of the Federal Reserve System, September 4, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87–21002 Filed 9–11–87; 8:45 am]

BILLING CODE 6210–01–M

Applications To Engage de novo in Permissible Nonbanking Activities; Bank of Boston Corp. et al.

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing.

identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 1, 1987.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Bank of Boston Corporation,* Boston, Massachusetts; to engage *de novo* through its subsidiary, BancBoston Financial Company, Boston, Massachusetts, in factoring activities pursuant to § 225.25(b)(1)(v) of the Board's Regulation Y. Applicant proposes to continue to engage in factoring activities in Taiwan and Hong Kong and to expand the service area to worldwide.

B. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Marine Midland Banks, Inc.,* Buffalo, New York; The Hong Kong and Shanghai Banking Corporation, Hong Kong; HSBC Holdings B.V., Amsterdam, The Netherlands; and Kellett N.V., Curacao, Netherlands/Antilles; to engage *de novo* through their subsidiary, Subaru Credit Corporation, Buffalo, New York, in making and servicing loans, as are made by consumer finance and commercial finance companies, and in leasing personal property pursuant to § 225.25 (b)(1) and (b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 8, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-20999 Filed 9-11-87; 8:45 am]

BILLING CODE 6210-01-M

Acquisitions of Shares of Banks or Bank Holding Companies; First Minnetonka City Bank Employees Profit Sharing Plan

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 29, 1987.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First Minnetonka City Bank Employees Profit Sharing Plan and Trust,* Minnetonka, Minnesota; to acquire an additional 10.09 percent of the voting shares of First Minnetonka Bancorporation, Inc., Minnetonka, Minnesota.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Robert V. Kelley,* Burbank, California, to acquire 31.5 percent of the voting shares of BNB Bancorp, Burbank, California, and thereby indirectly acquire Burbank National Bank, Burbank, California.

Board of Governors of the Federal Reserve System, September 8, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-21000 Filed 9-11-87; 8:45 am]

BILLING CODE 6210-01-M

Formations of; Acquisitions by; and Mergers of Bank Holding Companies; The Summit Bancorporation 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 October 1, 1987.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Summit Bancorporation,* Summit, New Jersey; to merge with Yardville National Bancorp, Yardville, New Jersey, and thereby indirectly acquire the Yardville National Bank, Yardville, New Jersey.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *SunTrust Banks, Inc.,* Atlanta, Georgia; to acquire 100 percent of the voting shares of SunTrust BankCard, N.A., Atlanta, Georgia, a *de novo* bank.

C. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Chester County Bancshares, Inc. II,* Henderson, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Chester County Bank, Henderson, Tennessee.

2. *Independent Community Bancorp, Inc.,* Frankfort, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Kentucky Independent Bank, Inc., Frankfort, Kentucky, a *de novo* bank.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Allen Bancshares, Inc.,* Olathe, Kansas; to become a bank holding company by acquiring 88.13 percent of the voting shares of Olathe State Bank, Olathe, Kansas.

Board of Governors of the Federal Reserve System, September 8, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-21001 Filed 9-11-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

National Institute of Mental Health, Neurosciences Research Review Committee; Meeting

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming meetings of the agency's

initial review committees in the month of October 1987. These committees will be open for discussion of administrative announcements and program developments. The committees will be performing initial review of applications for Federal assistance. Therefore, portions of the meetings will be closed to the public as determined by the Administrator, ADAMHA, in accordance with 5 U.S.C. 552(b)(6) and 5 U.S.C. app. 2 10(d). Notice of these meetings is required under the Federal Advisory Committee Act, Pub. L. 92–463.

Committee Name: Neurosciences Research Review Committee, NIMH.

Date and Time: October 7–9: 8:30 a.m.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue NW., Washington, DC 20007.

Status of Meeting:

Open—October 7: 8:30–9:30 a.m.
Closed—Otherwise

Contact: Gerry Perlman, Room 9C26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3944.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to basic psychopharmacology and neuropsychology, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Psychopharmacological, Biological, and Physical Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee, NIMH.

Date and Time: October 8–9: 9:00 a.m.

Place: Guest Quarters Hotel, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Status of Meeting:

Open—October 8: 9:00–10:00 a.m.
Closed—Otherwise.

Contact: Pamela J. Mitchell, Room 9C14, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–1367.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of treatment development and assessment, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Psychosocial and Biobehavioral Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee, NIMH.

Date and Time: October 8–9: 9:00 a.m.

Place: Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC 20008.

Status of Meeting:

Open—October 8: 9:00–10:00 a.m.
Closed—Otherwise.

Contact: Frances Smith, Room 9C02, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–4868.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and/or research training activities in the fields of treatment development and assessment, and makes recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Child and Family and Prevention Subcommittee of the Life Course and Prevention Research Review Committee, NIMH.

Date and Time: October 8–10: 9:00 a.m.

Place: Canterbury Hotel, 1733 N Street NW., Washington, DC 20036.

Status of Meeting:

Open—October 8: 9:00–10:00 a.m.
Closed—Otherwise.

Contact: Dorothy Tengood, Room 9C18, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3857.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to basic psychopharmacology and neuropsychology with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Cognition, Emotion, and Personality Research Review Committee, NIMH.

Date and Time: October 9–10: 9:00 a.m.

Place: The Henley Park Hotel, 926 Massachusetts Avenue NW., Washington, DC 20001.

Status of Meeting:

Open—October 8: 9:00–10:00 a.m.
Closed—Otherwise

Contact: Shirley Maltz, Room 9C26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3944.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to the fields of personality, cognition, emotion, and higher mental processes, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Clinical Program Projects and Clinical Research Centers Subcommittee of the Treatment Development and Assessment Research Review Committee, NIMH.

Date and Time: October 15–16: 9:00 a.m.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Status of Meeting:

Open—October 15: 9:00–10:00 a.m.
Closed—Otherwise.

Contact: Pamela J. Mitchell, Room 9C14, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–1367.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of Mental Health Clinical Research Centers, clinical program projects, and other large-scale multi-disciplinary research projects, and makes recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Clincial and Treatment Subcommittee of the Alcohol Psychosocial Research Review Committee, NIAAA.

Date and Time: October 19–21: 9:00 a.m.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Status of Meeting:

Open—October 19: 9:00–9:30 a.m.
Closed—Otherwise

Contact: Thomas D. Sevy, Room 16C26, Parklawn Bulding, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6106.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities, and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Committee Name: Drug Abuse Epidemiology and Prevention Research Review Committee, NIDA (foremerly Drug Abuse Epidemiology, Prevention, and Services Research Review Committee).

Date and Time: October 19–22: 8:30 a.m.

Place: Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, MD 20852.

Status of Meeting:

Open—October 19: 8:30–9:30 a.m.

Closed—Otherwise

Contact: Ron Gold, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2620.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Committee Name: Biochemistry Research Subcommittee of the Drug Abuse Biomedical Research Review Committee, NIDA.

Date and Time: October 20–23: 8:30 a.m..

Place; Halpine Room, Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, MD 20852.

Status of Meeting:

Open—October 20: 8:30–8:45 a.m.
Closed—Otherwise

Contact: Yuth Nimit, 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2620.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for fiscal review.

Committee Name: Drug Abuse Clinical and Behavioral Research Review Committee, NIDA.

Date and Time: October 20–23: 9:00 a.m.

Place: Parklawn Room, Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, MD 20852.

Status of Meeting:

Open—October 20: 9:00–9:30 a.m.
Closed—Otherwise

Contact: Daniel Mintz, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rocville, MD 20857, (301) 443–2620.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Committee Name: Pharmacology Research Subcommittee of the Drug Abuse Biomedical Research Committee, NIDA.

Date and Time: October 20–23: 8:30 a.m.

Place: Woodmont Room, Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, MD 20852.

Status of Meeting:

Open—October 20: 8:30–8:45 a.m.
Closed—Otherwise

Contact: Heinz Sorer, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2620.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Committee Name: Prevention and Epidemiology Subcommittee of the Alcohol Psychosocial Research Review Committee, NIAAA.

Date and Time: October 21–23: 9:00 a.m.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Status of Meeting:

Open—October 21: 9:00–10:30 a.m.
Closed—Otherwise

Contact: Thomas D. Sevy, Room 16C26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6160.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommenations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Committee Name: Aging Subcommittee of the Life Course and Prevention Research Review Committee, NIMH.

Date and Time: October 22–23: 9:00 a.m.

Place: Shoreham Hotel, 2500 Calvert Street NW., Washington, DC 20008.

Status of Meeting:

Open—October 22: 9:00—9:30 a.m.
Closed—Otherwise

Contact: Jean Byrne, Room 9C18, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3857.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research grants, individual postdoctoral research fellowships and institutional research training grants, cooperative agreements, and research and development contracts, as they relate to mental health, in the fields of child, family, and aging, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Mental Health Behavioral Sciences Research Review Committee, NIMH.

Date and Time: October 22–24: 9:00 a.m.

Place: Canterbury Hotel, 1733 N Street NW., Washington, DC 20036.

Status of Meeting:

Open—October 22: 9:00–10:00 a.m.
Closed—Otherwise

Contact: Cathy Oliver, Room 9C26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3936.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research grants, individual postdoctoral research fellowships and institutional research training grants, cooperative agreements, and research and development contracts, as they relate to behavorial sciences areas relevant to mental health, and makes recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Neuroscience and Behavior Subcommittee of the Alcohol Biomedical Research Review Committee, NIAAA.

Date and Time: October 28–30: 9:00 a.m.

Place: Embassy Suites, 1250 22nd Street NW., Washington, DC 20037.

Status of Meeting:

Open–October 28: 9:00:–11:00 a.m.
Closed–Otherwise

Contact: Samir Zakhari, Room 16C26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6106.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities, and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Committee Name: Criminal and Violent Behavior Research Review Committee, NIMH.

Date and Time: October 28–30: 9:15 a.m.

Place: Omni Shoreham Hotel, 2500 Calvert Street NW., Washington, DC 20008.

Status of Meeting:

Open–October 28: 9:15–10:30 a.m.
Closed–Otherwise

Contact: Peg Lyons, Room 9C18, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3857.

Purpose: The Committee is charged with the initial review of applications

for assistance from the National Institute of Mental Health for support of research grants, individual postdoctoral research fellowships and institutional research training grants, cooperative agreements, and research and development contracts, as they relate to the mental health aspects of criminal, delinquent, and antisocial behavior; individual violent behavior; sexual assault; and law-mental health interactions related to these areas, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Research Scientist Development Review Committee, NIMH.

Date and Time: October 28–30: 9:00 a.m.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Status of Meeting:

Open–October 28: 9:00–10:00 a.m.

Closed–Otherwise

Contact: Linda Rainey, Room 9C05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6470.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities to develop and execute a program of Research Scientist and Research Scientist Development Awards to appropriate institutions for the support of individuals who are engaged full time in research and related activities relevant to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Substantive information may be obtained from the contact persons listed above. Summeries of the meetings and rosters of committee members may be obtained as follows: NIAAA: Ms. Diana Widner, Committee Management Officer, Room 16C20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4375; NIDA: Ms. Camilla Holland, Committee Management Officer, Room 10–22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1644; NIMH: Ms. Joanna Kieffer, Committee Management Officer, Room 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Date: September 8, 1987.

Peggy W. Cockrill

Committee Managment Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 87–21016 Filed 9–11–87; 8:45 am]

BILLING CODE 4160–20–M

Food and Drug Administration

[Docket No. 87N–0306]

Drug Export; Duralith™ (Lithium Carbonate) C.R. Tablets, 300 mg.

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Forest Laboratories, Inc., has filed an application requesting approval for the export of the human drug Duralith™ (Lithium Carbonate) C.R. Tablets, 300 mg. to Canada.

ADDRESS: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Rudolf Apodaca, Center for Drugs and Biologics (HFN–310), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8063.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (Pub. L. 99–660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of drugs that are not currently approved in the United States. The approval process is governed by section 802(b) of the act. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Forest Laboratories, Inc., 150 East 58th Street, New York, New York 10155–0015, has filed an application requesting approval for the export of the drug Duralith™ (Lithium Carbonate) C.R. Tablets, 300 mg. to Canada. The drug is indicated for use in the treatment of manic episodes of manic-depressive illness. The application was received and filed in the Center for Drugs and Biologics on September 2, 1987, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by September 24, 1987, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802, Pub. L. 99–660 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drugs and Biologics (21 CFR 5.44).

Dated: September 4, 1987.

Daniel L. Michels,

Director, Office of Compliance, Center for Drugs and Biologics.

[FR Doc. 87–21052 Filed 9–11–87; 8:45 am]

BILLING CODE 4160–01–M

National Institutes of Health

National Cancer Institute (NCAB Subcommittee on AIDS); Meeting

Notice is hereby given of a change in the meeting of the National Cancer Advisory Board Subcommittee on AIDS, National Cancer Institute. This meeting, originally scheduled for September 29, 1987, 7:30 p.m., Building 31C, Conference Room 7, Bethesda, Maryland 20892, was published in the **Federal Register** (52 FR 33474) on September 3.

This Subcommittee meeting is being rescheduled to convene on September 29 immediately following the Subcommittee on Special Actions for Grants meeting. The Subcommittee on Special Actions for Grants is to meet at 8:30 a.m. until the completion of the review of grant applications. It will be held in Building 31C, Conference Room 8, Bethesda, Maryland 20892.

The meeting will be open to the public for the discussion of the National Cancer Institute's involvement in AIDS research.

Dated: September 4, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-21067 Filed 9-11-87; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Board of Scientific Counselors, Division of Cancer Biology and Diagnosis; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Biology and Diagnosis, National Cancer Institute, November 3, 1987, Building 31C, Conference Room 10, National Institutes of Health, Bethesda, Maryland 20892.

The meeting will be devoted to program review and to concept review of proposed NCI research initiatives and will be open to the public on November 3 from 9 a.m. to adjournment. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide summary minutes of the meeting and roster of committee members.

Dr. Ihor J. Masnyk, Deputy Director, Division of Cancer Biology and Diagnosis, National Cancer Institute, Building 31, Room 3A03, National Institutes of Health, Bethesda, Maryland 20892 (301/496-3251) will provide substantive program information.

Dated: September 4, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-21068 Filed 9-11-87; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Environmental Health Sciences; Issuance of Research Plan for the NIEHS Superfund Hazardous Substances Basic Research Program

Notice is hereby given of the issuance and availability of the plan for the implementation of a program of university-based research and training grants authorized by section 322(a) of the Comprehensive Environmental Response, Compensation of Liability Act (42 U.S.C. 9601) as amended by section 203 of the Superfund Amendments and Reauthorization Act (42 U.S.C. 9660a).

The plans and priorities for the NIEHS Hazardous Substances Basic Research Grants program were previously described in meeting announcements published in the **Federal Register** of November 28, 1986 (51 FR 43089-43092) and March 9, 1987 (52 FR 7218-7223). Public comment was solicited regarding the plans and priorities. Following the public meeting, the two program descriptions were consolidated into the draft "NIEHS Superfund Hazardous Substances Basic Research Plan" and submitted to the NIEHS Advisory Council on Hazardous Substances Research and Training for review and comment at the July 20, 1987, meeting published in the **Federal Register** June 30, 1987 (52 FR 24346).

The final version of the plan for implementation, entitled "The NIEHS Hazardous Substances Basic Research and Training Plan" is now available from Mr. Daniel VanderMeer, Office of Program Planning and Evaluation, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709. (Phone: 919 541-3484 or FTS 629-3484.)

Dated: September 8, 1987.

James B. Wyngaarden,

Director, National Institutes of Health.

[FR Doc. 87-21069 Filed 9-11-87; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Delegation of Authority; Health Care for the Homeless, Section 340 of the Public Health Service Act

Notice is hereby given that in furtherance of the delegation of authority to the Assistant Secretary for Health on January 14, 1981, (46 FR 10016) by the Secretary of Health and Human Services, the Assistant Secretary for Health has delegated to the Administrator, Health Resources and Services Administration, with authority to redelegate, the authority under section 340 of the Public Health Service Act (42 U.S.C. 256), as amended, pertaining to Health Care for the Homeless. Previous delegations and redelegations made to officials within the Public Health Service of authorities under section 340 of the Public Health Service Act may continue in effect provided they are consistent with this delegation.

The above delegation was effective on September 2, 1987.

Date: September 2, 1987.

Robert E. Windom,

Assistant Secretary for Health.

[FR Doc. 87-21017 Filed 9-11-87; 8:45 am]

BILLING CODE 4160-15-M

Alcohol, Drug Abuse, and Mental Health Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HM, Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 36163-7, August 19, 1975, as amended by 52 FR 15383, April 28, 1987) is amended to reflect a revision in the function of the National Institute of Mental Health. This revision of function is necessary in preparation for the transfer of Saint Elizabeths Hospital to the District of Columbia in October 1987, in accordance with Pub. L. 98-621. The transfer requires a revision of the functional statements of the Office of the Director, National Institute of Mental Health.

Section HMM, Organization and Functions, is amended as follows:

In the functional statement for the *National Institute of Mental Health,* insert an "and" before item (6) change the semicolon after item (6) to a period, and delete item (7).

Section HM-B, Organization and Functions, is amended as follows:

In the functional statement for the *Division of Intramural Research Programs HMMB,* delete item (3), and insert the following as item (3): "(3) provides a focus for national attention in the area of mental health research."

These organizational changes will be effective October 1, 1987.

Date: August 31, 1987.

Robert E. Windom,

Assistant Secretary for Health.

[FR Doc. 87-21039 Filed 9-11-87; 8:45 am]

BILLING CODE 4160-20-M

Privacy Act of 1974; New System of Records

AGENCY: Public Health Service, HHS.

ACTION: Notification of a new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing a notice of a new system of records 09-15-0054, "Health Care Practitioner Adverse Credentialing Data Bank, HHS/HRSA/BHPr." Routine uses for this new system also are proposed.

DATE: PHS invites interested parties to submit comments on the proposed routine use on or before October 14, 1987. PHS has sent a Report of a New System of Records to Congress and the

Office of Management and Budget (OMB) on September 8, 1987. The new system of records will be effective 60 days from the date submitted to OMB, unless PHS receives comments which would result in a contrary determination.

ADDRESS: Please address comments to the HRSA Privacy Act Coordinator, Department of Health and Human Services, Parklawn Building, Room 14A–20, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–3780. This is not a toll-free number. Comments received will be available for public inspection at the above address during normal business hours, 8:30 a.m.–5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Dr. Kenneth P. Moritsugu, Acting Deputy Director, Bureau of Health Professions, Parklawn Building, Room 8–05, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301 443–5796. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Bureau of Health Professions (BHPr), Health Resources and Services Administration (HRSA), proposes to establish a new system of records for the purpose of: (1) Collecting from insurance companies, health care entities, and State licensing boards information affecting the professional qualifications of health care practitioners; and (2) disseminating data on adverse actions taken against health care practitioners to health care entities, which may employ them and to State licensure boards, as mandated by law.

A. The Department of Health and Human Services (DHHS) through a contractor will establish a data bank to collect and disseminate information concerning: (1) Medical malpractice actions or claims for which payment is made; (2) licensure disciplinary actions by Boards of Medical Examiners, and (3) adverse actions on clinical privileges taken by health care entities.

The data bank will be maintained by a private contractor, whose name, address, and telephone number will be announced in the final publication of the system notice. The contractor will be required to maintain Privacy Act safeguards with respect to this records system.

Definitions in this system notice:

The term "health care practitioner" includes physicians, dentists, nurses, optometrists, pharmacists, podiatrists, and other health care practitioners licensed or otherwise authorized by a State.

The term "Board of Medical Examiners" includes any such Board, a body comparable to such a Board (as determined by a State) with the responsibility for the licensing of physicians, and any subdivision of such a Board or body.

The term "Health Care Entity" includes a hospital, health maintenance organization, or group medical practitioner.

B. The Privacy Act permits disclosure of information without the consent of the subject individual for "routine uses," that is, disclosure which is compatible with the purpose for which the data are collected. Accordingly, six routine uses for information in this system of records have been established.

The first routine use permits disclosure to each hospital concerning a health care practitioner who is on its medical staff (courtesy or otherwise) or has clinical privileges at the hospital and for the purpose of screening such individuals who apply for a staff position or clinical privilege at the hospital. Records may also be disclosed to a hospital at such other times as it requests them. This enables the hosptial to meet the requirement of the Health Care Quality Improvement Act of 1986 which provides that each hospital every two years shall request information from the system on each practitioner on its medical staff or holding clinical privileges.

The second routine use will permit HRSA to disclose records to other health care entities, such as health maintenance organizations and group medical practices which provide health care service and follow a formal professional review process, as they enter an employment or affiliation relationship with a health care practitioner, or to which the health care practitioner has applied for clinical privileges or appointment to the medical staff. The purpose of the disclosures is to further the quality of the health care provided by these entities.

The third routine use will permit HRSA to disclose to a State licensing board conducting a review of the individual to aid the Board in meeting its responsibility to protect the health of the population in its jurisdiction.

The fourth routine use will permit HRSA to disclose records to an attorney who has filed a malpractice action or claim on behalf of a client with State or Federal court or other adjudicatory body regarding a specific health care practitioner, for use solely with respect to litigation resulting from the action or claim.

The fifth routine use will permit disclosure to any Federal entity, employing a health care practitioner or having the authority to sanction such practitioners covered by a Federal program, which (a) enters into a memorandum of agreement with HHS, (2) conducts a formal professional review process in determining an adverse action against a practitioner, and (3) maintains a Privacy Act system of records regarding information collected on the health care practitioners it employs. The purpose of the disclosure is to further the quality of the health care provided by these entities.

These Federal entities include the Department of Defense and the Veterans Administration, which will contribute data to and withdraw data from the system. They will request data on their staff every two years and also will check with the system on a practitioner prior to reaching a medical staff or clinical privileging affiliation agreement with the individual.

The sixth routine use provides for disclosure to the Department of Justice should the Department become a defendant in litigation to enable the Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

C. Safeguards have been established to insure that no unauthorized personnel has access to this information. The safeguards in this notice have been prepared to reflect the minimum safeguards which HRSA and the contractor will maintain. Safeguards will be periodically reviewed by the Project Officer, ADP Systems Security Officer, and the Contractor to assure the confidentiality and security of the data is strictly enforced.

Dated: September 9, 1987.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management, PHS.

09–15–0054

SYSTEM NAME:

Health Care Practitioner Adverse Credentialing Data Bank, HHS-/HRSA/BHPr.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records in this system will be located at a facility under contract to the Bureau of Health Professions (BHPr), Health Resources and Services Administration (HRSA). The contractor and facility location(s) will be announced in the final publication of this system notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Health care practitioners, including physicians, dentists, nurses, optometrists, pharmacists, podiatrists, and all other health care practitioners licensed or otherwise authorized by a State, against whom specified adverse credentialing actions have been taken or for whom malpractice compensation has been paid.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. *For malpractice compensation.* The health care practitioner's name(s); work and home addresses; professional school attended with date of graduation; license number(s); board certification; Drug Enforcement Administration (DEA) registration number; Social Security number if known; known hospital affiliations; the name and address of the entity, such as insurance companies, paying as well as the name, title, and phone number of the individual reporting on behalf of the paying entity; the file number on the claim; date of incident; date of judgment or settlement; and amount of payment with the terms.

2. *For State Medical Board action.* Health Care Practitioner's name(s); work and home addresses; professional school attended with date of graduation; license number(s); board certification; DEA number; Social Security number if known; the Board action, such as revocation or suspension of the physician's license, censures, reprimands, or placing individual on probation; classification of the action by code, and date of action with the effective date.

3. *For adverse clinical privilege action.* Health Care Practitioner's name(s), work and home addresses, professional school attended with date of graduation, license number(s), board certification, DEA number, Social Security number if known; action taken, and date of action with the effective date.

For categories 1, 2, and 3, a brief description of the acts or omissions and injuries or illnesses upon which the action or claim was based also is included.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Health Care Quality Improvement Act of 1986, section 424(b) (42 U.S.C. 11134(b)) authorizes the maintenance of records of medical malpractice payments, disciplinary actions taken by Boards of Medical Examiners, and professional review actions taken by health care entities.

PURPOSE(S):

The purpose of the system is to: (1) Collect from insurance companies, health care entities, and State licensing boards information affecting the professional qualifications of health care practitioners; and (2) disseminate data on adverse actions taken against health care practitioners to health care entities, which may employ them, and to State licensure boards, as mandated by law.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

HRSA may disclose data to:

1. Each hospital requesting data concerning a health care practitioner who is on its medical staff (courtesy or otherwise) or has clinical privileges at the hospital, and for the purpose of screening the professional qualification of such individuals who seek staff positions or clinical privileges at the hospital. Records also may be disclosed to a requesting hospital at such other times as it needs them. This enables the hospital to meet the requirement of the Health Care Quality Improvement Act of 1986 which also requires each hospital every two years to request data from the system regarding each practitioner on its medical staff or who holds clinical privileges.

2. Other health care entitites, such as health maintenance organizations and group medical practices which provide health care services and follow a formal professional review process, as they enter an employment or affiliation relationship with a health care practitioner, or to which the health care practitioner has applied for clinical privileges or appointment to the medical staff. The purpose of the disclosures is to identify health care practitioners whose qualification may be unsatisfactory.

3. A State licensing board conducting a review of the individual to aid the Board in meeting its responsibility to protect the health of the population in its jurisdiction.

4. An attorney who has filed a malpractice action or claim on behalf of a client with a State or Federal court or other adjudicatory body regarding a specific health care practitioner for use solely with respect to litigation resulting from the action or claim.

5. Any Federal entity, employing a health care practitioner or having the authority to sanction such practitioners covered by a Federal program, which (1) Enters into a memorandum of agreement with HHS; (2) conducts a formal professional review process in determining an adverse action against a practitioner; and (3) maintains a Privacy Act system of records regarding the health care practitioners it employs.

This includes the Department of Defense and the Veterans Administration which will contribute data to and withdraw data from the system. They will request data on their staff every two years and also will request information on a practitioner who seeks a medical staff position or clinical privileges.

6. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to effect directly the operation of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending a claim against the Public Health Service based upon an indvidual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, disclosure may be made to the Department of Justice to enable that Department to present an effective defense, provided that such disclousure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, magnetic tape, and disc packs.

RETRIEVABILITY:

At least two identifier levels will be used, such as: (1) Name, individual practitioner's identifying number assigned in the system; and (2) professional school attended and date of graduation. Other identifiers may be State license number(s), Federal and State Drug Enforcement Administration registration numbers, and Social Security number if known.

SAFEGUARDS:

1. Authorized Users: Access is limited to authorized BHPr and contract personnel responsible for administering the program. Authorized personnel include the System Manager and Project Officer, and HRSA ADP Systems Security Officer; and the contractor's employees and officials, computer personnel, and program managers who have responsibilities of implementing

the program. Both HRSA and the contractor shall maintain current lists of authorized users.

2. Physical Safeguards: Magnetic tapes, disc packs, computer equipment, and hard copy files are stored in areas where fire and life safety codes are strictly enforced. All automated and nonautomated documents are protected on a 24 hour basis in locked storage areas. Security guards perform random checks on the physical security of the records storage areas.

3. Procedural Safeguards: A password is required to access the terminal and a data set name controls the release of data to only authorized users. All users of personal information in connection with the performance of their jobs protect information from public view and from unauthorized personnel entering an unsupervised office. All authorizing users will sign a nondisclosure statement.

Access to records is limited to those staff members trained in accordance with the Privacy Act and ADP security procedures. The contractor is required to assure the confidentiality safeguards of these records and to comply with all provisions of the Privacy Act. All individuals who have access to these records must have the appropriate ADP security clearances. Privacy Act and ADP system security requirements are included in the contract. The BHPr Project Officer and the System Manager oversee compliance with these requirements. HRSA authorized users will make site visits to the contractor's facilities to assure security and Privacy Act compliance.

The safeguards described above were established in accordance with DHHS Chapter 45–13 and supplementary Chapter PHS hf: 45–13 of the General Administration Manual; and the DHHS Information Resources Management Manual, Part 6, "ADP Systems Security."

RETENTION AND DISPOSAL:

Each record shall be disposed of 15 years beyond the known death date of the practitioner or 15 years beyond the date of an individual's estimated age of 70. This retention span is established because imposters frequently claim the credentials of deceased practitioners in order to attempt to "provide care."

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Bureau of Health Professions, Room 8–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

NOTIFICATION PROCEDURES:

Requests by mail: To determine if a record exists about you, write to the contractor operating the bank (see SYSTEM LOCATION). The request must contain the name and address of the individual, the identifier number assigned to that practitioner by the system with the first admission of data about him/her into the bank, the name of the professional school attended and the date of graduation, license number(s), State and Federal Drug Enforcement Administration registration number, Social Security number if the individual wishes to provide it; a written statement that the requester is the person he/she claims to be and that he/she understands that the request or acquisition of records pertaining to another individual under false pretenses is a criminal offense subject to a $5,000 fine.

Requests in person: The individual must meet all the requirements stated above for a request by mail, providing the information in written form. The individual should recognize that in order to maintain confidentiality, and thus the accuracy of data released through repeated internal verification, securing the information by request in person will be time consuming.

Requests by telephone: Since positive identification of the caller cannot be established, telephone requests are not honored.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also provide a reasonable description of the record being sought. Requesters also may request an accounting of disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Any physician or health care practitioner may dispute the accuracy of information in the data system concerning himself/herself.

1. *Procedures for filing a dispute.* The practitioner:

a. informs the System Manager and the reporting entity, in writing, of the disagreement, and the basis for it;

b. requests simultaneously that the disputed information be entered into a "disputed" status and be reported to inquirers as being in a "disputed" status; and

c. enters into discussion with the reporting entity to resolve the dispute.

2. *Procedures for revising disputed information.*

a. If the reporting entity revises the information originally submitted to the data system, the System Manager will notify all entities to whom reports have been sent that the original information has been revised.

b. If the reporting entity fails to revise the reported information, the System Manager will, upon request, review the written information submitted by both parties (the physician or health care practitioner and the reporting entity), and related information which is available, including, but not limited to, that available from malpractice insurers, test examination results, State administrative procedures and judicial decisions, and the Health Care Financing Administration. After review, the System Manager will either:

(1) Continue to note the information as "disputed," and include a brief statement by the physician or health care practitioner describing the disagreement concerning the information; or

(2) Send corrected information to previous inquirers if the System Manager concludes that the information was incorrect.

RECORD SOURCE CATEGORIES:

Individuals whose records are contained in the system; insurance companies which have paid or are paying malpractice settlements or judgments; State Medical Boards; State Dental Boards; State Licensing Boards, health care entities; the Drug Enforcement Agency; and Federal organizations who employ health care practitioners.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 87–21174 Filed 9–11–87; 8:45 am]
BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–07–4111–15; W–76517]

Proposed Reinstatement of Terminated Oil and Gas Lease; Fremont County, WY

September 4, 1987.

Pursuant to the provisions of Pub. L. 97–451, 96 Stat. 2462–2466, and Regulation 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease W–76517 for lands in Fremont County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $7 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W–76517 effective May 1, 1987, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Fred O'Ferrall,

Acting Chief, Leasing Section.

[FR Doc. 87–21005 Filed 9–11–87; 8:45 am]

BILLING CODE 4310–22–M

[WY–920–07–4111–15; W–75062]

Proposed Reinstatement of Terminated Oil and Gas Lease; Natrona County, WY

September 4, 1987.

Pursuant to the provisions of Pub. L. 97–451, 96 Stat. 2462–2466, and Regulation 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease W–75062 for lands in Natrona County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of the **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W–75062 effective July 1, 1987, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Fred O'Ferrall,

Acting Chief, Leasing Section.

[FR Doc. 87–21006 Filed 9–11–87; 8:45 am]

BILLING CODE 4310–22–M

Minerals Management Service

Outer Continental Shelf Operations; Southern California OCS, Lease Sale

AGENCY: Minerals Management Service, Pacific OCS Region, Interior.

ACTION: Announcement of public scoping meetings for Proposed Offshore Oil and Gas Lease Sale 95, southern California.

SUMMARY: This notice announces four public scoping meetings to be held regarding the proposed Offshore Oil and Gas Lease Sale 95, southern California. The purpose of these scoping meetings is to indicate the area to be studied, gather public information, identify sale related issues and concerns, and review the offshore leasing process. The meetings will be held in Santa Maria, Ventura, Long Beach, and Oceanside, California.

DATES AND ADDRESSES: The public meeting dates and locations are as follows: October 14, 1987, Santa Maria Inn, 801 S. Broadway, in Santa Maria, CA.; October 16, 1987, McBride Building, Ventura County Fairgrounds, 10 W. Harbor Blvd., in Ventura, CA; October 20, 1987, Long Beach Convention and Entertainment Center, 300 E. Ocean Blvd., in Long Beach, CA.; and October 22, 1987, El Camino Country Club, 3202 Vista Way in Oceanside, CA. An opportunity to make public statements will be provided at each meeting. All four meetings will begin at 9 a.m. and continue until 8 p.m. or until all information is received. The written scoping comment period closes October 9, 1987. Written scoping comments should be sent to the address below, however written statements submitted at the scoping meetings will be considered and evaluated.

FOR FURTHER INFORMATION CONTACT: George W. Hampton, Sale 95 EIS Coordinator, Environmental Assessment Section, Office of Leasing and Environment, Minerals Management Service, 1340 West Sixth Street, Los Angeles, CA 90017. (213) 894–6744, or FTS 798–6744.

SUPPLEMENTARY INFORMATION: On July 9, 1987 (52 FR 25956), MMS published notices in the **Federal Register** (Volume 52, Number 131) announcing the Call for Information and Nominations and the Notice of Intent to Prepare an Environmental Impact Statement (EIS) for the proposed Offshore Oil and Gas Lease Sale 95, southern California. This began the pre-lease process leading to the lease sale tentatively scheduled for September, 1989, and opened the public scoping period. To ensure that public concerns and issues are identified, and to assist the technical staff preparing the EIS in incorporating these concerns into the pre-lease process, four public scoping meetings are scheduled. At these meetings concerned citizens, interest groups, representatives of governmental agencies and the oil industry, will have the opportunity to meet individually with MMS technical staff to discuss issues of concern, make public statements, and hear a brief overview of the offshore leasing program. The written scoping comment period formally ends on October 9, 1987. All comments received at the scoping meetings will be evaluated and considered during the EIS preparation process. There will be several other periods prior to the lease sale where the public will have opportunities to comment on both the EIS and the proposal, including the period following the release of the draft EIS.

Dated: September 4, 1987.

William E. Grant,

Regional Director, Pacific OCS Region, Minerals Management Service.

[FR Doc. 87–21044 Filed 9–11–87; 8:45 am]

BILLING CODE 4310–MR–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31107]

Duluth, Winnipeg and Pacific Railway Co., Tracking Rights, Duluth, Missabe & Iron Range Railway Co.; Exemption

Duluth, Missabe and Iron Range Railway Company (DM&IR) has agreed to grant overhead trackage rights to Duluth, Winnipeg and Pacific Railway Company (DWP) between mileposts 21.66 and 23.0 on DM&IR's interstate division at Pokegama yard, Superior, WI, a distance of approximately 1.34 miles. The trackage rights are effective September 1, 1987.

This notice is filed under 49 CFR 1180.3(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

As a condition to use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).[1]

Dated: September 4, 1987.

[1] The Railway Labor Executives' Association has filed a request for labor protection. Since this transaction involves an exemption from 49 U.S.C. 11343, whereby the imposition of labor protective conditions is mandatory, those conditions have been routinely imposed.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Kathleen M. King,

Acting Secretary.

[FR Doc. 87-21180 Filed 9-11-87; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 87-73]

NASA Advisory Council; Establishment of Space Station Advisory Committee and Renewal of Council

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Establishment of Space Station Advisory Committee and Renewal of Council.

SUMMARY: Pursuant to section 14(b)(1) of the Federal Advisory Committee Act, Pub. L. 92-463, and after consultation with the Committee Management Secretariat, General Services Administration, the National Aeronautics and Space Administration has determined that establishment of the Space Station Advisory Committee of the NASA Advisory Council is in the public interest in connection with the performance of duties imposed upon NASA by law. NASA has also determined that renewal of the following NASA advisory committees is in each case in the public interest in connection with the performance of duties imposed upon NASA by law:

NASA Advisory Council (NAC);
Aeronautics Advisory Committee;
Aeronautics Advisory Committee; Subcommittee on Aviation Safety Reporting System;
History Advisory Committee;
Life Sciences Advisory Committee;
Space Applications Advisory Committee;
Space and Earth Science Advisory Committee;
Space Systems and Technology Advisory Committee.

FOR FURTHER INFORMATION CONTACT: Mr. Nathaniel B. Cohen, National Aeronautics and Space Administration, Code F, Washington, DC 20546 (202/453-8335).

SUPPLEMENTARY INFORMATION: The function of the Council is to consult with and advise the NASA Administrator or designee with respect to plans for, work in progress on, and accomplishments of NASA's aeronautics and space programs. The Space Station Advisory Committee will be concerned with all facets of the Space Station Program, but specifically including: (1) Technical matters of design development, and construction of the initial station complex; (2) adequacy of and plans for verification of designs; (3) agency preparations to use the station in all relevant disciplines; (4) agency preparations to operate and support the station, including transportation support; (5) safety of crew and equipment; (6) participation in the program by interests other than NASA (government and private, domestic and foreign); and (7) station evolution, and the role of the station in the long-term, strategic plans of the agency.

Richard L. Daniels,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

September 3, 1987.

[FR Doc. 87-21036 Filed 9-11-87; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATE: Requests for copies must be received in writing on or before October 29, 1987. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESS: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights and interests of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of the Air Force, N1-AFU-86-3. Records concerning standard reporting designators used to identify selected equipment in the Air Force inventory.

2. Department of the Air Force, Directorate of Administration (N1-AFU-87-14). Records relating to non-technical graphics produced at the base level.

3. Department of the Air Force, (N1-AFU-87-35). Short-term promotion records.

4. Department of Agriculture, Forest Service (N1-95-87-3). Records created during the rulemaking process (case files for specific rules and policies have been

designated for eventual transfer to the National Archives).

5. Department of Agriculture, Forest Service, Fire and Aviation Staff (N1–95–87–18). Cooperative Fire Protection Program poster artwork.

6. Department of Commerce, National Production Authority (N1–151–87–15). Records of the National Production Authority relating to scrap and salvage.

7. Commodity Futures Trading Commission, Office of Administrative Services, (N1–180–87–1). Trading registration and surveillance records.

8. Farm Credit Administration, Records and Projects Division (N1–103–87–1). Stockholder agreements of the Baltimore Bank for Cooperatives.

9. Department of Justice, Civil Division, Foreign Litigation Section (N1–131–87–3). Looted securities claim case files, 1943–59, of the Office of Alien Property.

10. Department of State, Brussels Universal and International Exhibition of 1958 (N1–43–87–2). Aerial film depicting an unidentified rural area. Records of historical value are permanent.

11. Department of State, Bureau of Economic and Business Affairs, Executive Office (N1–59–87–10). Data Bank of Economic Officers.

12. Veterans Administration, Department of Medicine and Surgery (N1–15–87–4). Medical records. (This comprehensive schedule provides for the long term retention of the patient medical files).

Dated: September 3, 1987.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 87–21018 Filed 9–1–87; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATE: Comments on this information collection must be submitted on or before October 14, 1987.

ADDRESS: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Service Office, Room 202, 1100 Pennsylvania Avenue NW., Washington, DC 20596 (202) 786–0233 and Ms. Elaina Norden, Office of Management and Budget, New Executive Office Building, 726 Jackson Place NW., Room 3208, Washington, DC 20503 (202) 395–6880.

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid of Foreman, National Endoment for the Humanities, Administrative Service Office, Room 202, 1100 Pennsylvania Avenue NW., Washington, DC 20596 (202) 786–0233 from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) the title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out of the form. None of these entries are subject to 44 U.S.C. 3504(h).

Category Extension

Title: NEH-Division of Fellowships and Seminars-Guidelines and Application Instruction for Directors, Summer Seminars for School Teachers Program

Form Number: 3136–0095

Frequency of Collection: Collection occurs once yearly, according to individual program application deadline

Respondents: University and college faculty

Use: The guidelines and application instructions provide direction for preparing narrative and budgetary parts of applicants for grant funds and request additional information regarding grants recently received by applicants

Estimated Number of Respondents: 805

Estimated Hours for Respondents to Provide Information: 3,220

Title: NEH-Division of Fellowships and Seminars-Guidelines and Application Instruction for Participants, Summer Seminars for School Teachers Program

Form Number: 3136–0097

Frequency of Collection: Collection occurs once yearly, according to individual program application deadline

Respondents: School Teachers and other school personnel

Use: The guidelines and application instructions provide direction for preparing applicants for grant funds and request additional information regarding grants recently received by applicants

Estimated Number of Respondents: 8,430

Estimated Hours for Respondents to Provide Information: 25,290

Susan Metts,

Assistant Chairman of Administration.

[FR Doc. 87–21041 Filed 9–11–87; 8:45 am]

BILLING CODE 7536–01–M

National Endowment for the Arts; Tilted Arc Site Review Advisory Committee; Notice of Renewal

In accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92–463), section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4) and Paragraph 9 of Office Management and Budget Circular A–63) notice is hereby given that renewal of the Tilted Arc Site Review Advisory Committee has been approved by the Chairman of the National Endowment for the Arts for a period of one year from the date this Charter is filed. In response to a request by the General Services Administration (GSA), the committee will review and make recommendations on the appropriateness or inappropriateness of proposed sites for the relocation of a sculpture entitled *Tilted Arc* by Richard Serra. This Committee will report its recommendations to the Administrator of the GSA or the Administrator's designee, through the Chairman of the Arts Endowment.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

Yvonne M. Sabine,

Acting Director, Office of Council and Panel, National Endowment for the Arts.

September 9, 1987.

[FR Doc. 87–21104 Filed 9–11–87; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

American Nuclear Society Executive Workshops on the Utility/NRC Interface.

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of conferences.

SUMMARY: NRC staff will participate in Executive Workshops sponsored by the American Nuclear Society on the subject of the Utility/NRC Interface.

DATE: October 13–15, 1987 (Central Workshop).

LOCATION: Bethesda, MD (Central Workshop).

CONTACT FOR FURTHER INFORMATION: Information on meeting locations, conference fees and registration procedures may be obtained by writing or calling the American Nuclear Society, Meetings, Department, 555 North Kensington, Avenue, LaGrange Park, IL 60525; (312) 352–6611. Inquiries regarding the Central Workshop should be made prior to October 2, 1987.

SUPPLEMENTARY INFORMATION: The Central Workshop, to be held in Bethesda, MD, October 13–15, 1987, will provide information to improve communications and the overall effectiveness of the operations-related interface between utilities and the NRC. Subsequent regional workshops will be held to apply the results of the central meeting to situations in the specific regions. Tentative regional workshop dates are as follows:

- Regions IV and V, November 19–21, 1987, Los Angeles, CA.
- Region II, January 10–12, 1988, Atlanta, GA.
- Region I, February 28–March 2, 1988, Philadelphia, PA.
- Region III, March 20–22, 1988, Chicago, IL.

Dated at Bethesda, MD this 8th day of September 1987.

For Nuclear Regulatory Commission.

James G. Partlow,

Director, Division of Reactor Inspection and Safeguards, Office of Nuclear Reactor Regulation.

[FR Doc. 87–21057 Filed 9–11–87; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on TVA Organizational Issues; Meeting

The ACRS Subcommittee on TVA Organizational Issues will hold a meeting on October 2, 1987, Room 1046, 1717 H Street, NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Friday, October 2, 1987—8:30 A.M. Until the Conclusion of Business

The Subcommittee will review the safety issues associated with TVA management reorganization and the Sequoyah restart.

Oral statements may be presented by member of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Person desiring to make oral statements should notify the ACRS staff members named below as far in advance as in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ARCS staff member, Dr. Richard Savio (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date: September 9, 1987.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 87–21054 Filed 9–11–87; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Meeting of the Auxiliary Systems Subcommittee; Change of Date

The ACRS Subcommittee meeting on Auxiliary Systems scheduled to be held on September 30, 1987, notice of which was published in the **Federal Register** on August 14, 1987 (52 FR 30473), has been *postponed to October 1, 1987, 8:30 A.M., Room 1046, 1717 H Street NW., Washington, DC.* All other items pertaining to this meeting remain the same as previously published.

Date: September 9, 1987.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 87–21055 Filed 9–11–87; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Extreme External Phenomena; Change of Date

The ACRS Extreme External Phenomena Subcommittee meeting scheduled for September 17, 1987 has been *rescheduled for 9:00 A.M., Tuesday, September 29, 1987.* All other items pertaining to this meeting remain the same as previously published in the **Federal Register** dated Friday, August 21, 1987 (52 FR 31685).

Date: September 9, 1987.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 87–21056 Filed 9–11–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 30–20294 License No. 35–23134–01 EA 87–172]

Order Suspending License (Effective Immediately) and Order to Show Cause; Log-Tec

I

Log-Tec, (Licensee) P.O. Box 61, Cleveland, Oklahoma 74020 is the holder of a Byproduct Material License issued by the Nuclear Regulatory Commission (NRC/Commission) on June 14, 1984 pursuant to 10 CFR Part 30. The license is due to expire on June 30, 1989. The license authorizes the Licensee to possess and use licensed materials (americium-241 and cesium-137 sources of up to 4.6 and 10 curies per source, respectively) in oil and gas well logging. The license specifies that sources shall be used by, or under the supervision and in the physical presence of, Hector Apodaca or Roger Couffer. Mr. Apodaca is no longer employed by Log-Tec and is no longer a part owner of Log-Tec. Presently, Mr. Couffer is the sole proprietor of Log-Tec. Mr. Couffer is an experienced well logger who has been employed at four other well logging companies and who has been involved in licensed activities since April 1974 as a user, supervisor, or owner.

On August 19, 1987, a routine NRC inspection was conducted at Log-Tec facilities in Cleveland, Oklahoma. During the course of the inspection, the NRC inspector determined that the Licensee was in apparent violation of seven regulatory requirements. These apparent violations included the failure to (a) store radioactive material at an authorized location, (b) survey storage facilities, (c) provide for personnel monitoring, (d) maintain utilization records, (e) properly label radioactive shipping packages, (f) perform leak tests on sealed sources, and (g) calibrate survey instruments. When these apparent violations were discussed with Mr. Couffer, the company's sole proprietor, the NRC inspector was told that the Licensee's sources had not been used since about june 1986.

Contrary to the above, on August 21, 1987, the President of Inland Oil Corporation provided a sworn statement that the Licensee had conducted well logging operations for Inland Oil Corporation on July 9, 1987. According to the President, he and another person witnessed Mr. Couffer conducting the logging process. Inland Oil Corporation also provided NRC with written documentation (i.e., neutron log) received from the Licensee that verified the results of the logging process.

On August 21, 1987, an NRC investigator and an NRC inspector interviewed Mr. Couffer about the use of radioactive sources. Again, Mr. Couffer reiterated that he had done no logging using radioactive sources since June 1986. However, when confronted with the copy of the neutron log received from Inland Oil Corporation, Mr. Couffer admitted that he had performed this work and had used a radioactive source to do so. Also, Mr. Couffer stated that he had no records of his work at Inland Oil. Mr. Couffer said that he told the NRC inspector that he had not used radioactive sources because he knew his records were not up-to-date and he was afraid to admit this. Mr. Couffer stated that he had none of the records required by NRC and never thought about keeping such records. He stated that his survey equipment was out of calibration because he did not have the money for such maintenance. Mr. Couffer also admitted that he had not used film badges in a long time because he could not afford such associated expenses. Also, Mr. Couffer admitted that he, doing business as (dba) Log-Tec, had conducted licensed well logging activities for other companies (i.e., Continental Oil, JGW, and Covenant Oil) since June 1986 besides that done for Inland Oil Corporation. NRC contacted and subsequently obtained Inland Oil Corporation company neutron ray logs that document Mr. Couffer's use of radioactive sources for logging operations on September 9, 1986, December 10, 1986, and June 30, 1987.

III

Mr. Couffer's action in deceiving the NRC inspector demonstrates that he is untrustworthy and uncommitted in his compliance with Commission requirements. Therefore, I lack the requisite reasonable assurance that Mr. Couffer, dba Log-Tec, will comply with Commission requirements in the future. Accordingly, I have determined that the public health, safety, and interest require that License No. 35–23134–01 be suspended, effective immediately, as described below.

I have further determined that pursuant to 10 CFR 2.201(c) and 2.202(f) no prior notice is required and that the suspension should be immediately effective pending further Order.

IV

Accordingly, in view of the foregoing and pursuant to sections 81, 161b., 161c., 161i., 161o., 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Section 2.202 and 10 CFR Parts 30 and 39, It is hereby ordered, immediately effective, that:

A. Activities authorized under License No. 35–23134–01 are suspended.

B. Mr. Couffer, dba Log-Tec, shall place all byproduct material in his possession in locked storage and within 30 days shall transfer such material to a person authorized to receive the material and shall notify the NRC Region IV office upon compliance.

C. Mr. Couffer, dba Log-Tec, shall show cause, in accordance with Section V of this Order, why License No. 35–23134–01 should not be revoked.

The Regional Administrator, Region IV, may relax or rescind any of the above provisions upon demonstration of good cause by Mr. Couffer, dbt Log-Tec.

V

Pursuant to 10 CFR 2.202(b), Mr. Couffer, dba Log-Tec, may show cause why License No. 35–23134–01 should not be revoked by filing a written answer under oath or affirmation within twenty days of the date of this Order, setting forth the matters of fact and law on which the Licensee relies. Mr. Couffer, dba Log-Tec, may answer this Order, as provided in 10 CFR 2.202(d), by consenting to the provisions specified in Section IV above. Upon consent of Mr. Couffer, dba Log-Tec, to the provisions set forth in Section IV of this Order, or upon his failure to file an answer within the specified time, the provisions specified in Section IV above shall be final without further Order.

VI

Pursuant to 10 CFR 2.202(b), Mr. Couffer, dba Log-Tec, or any other person adversely affected by this order may request a hearing within twenty days of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011. If a person other than Mr. Couffer, dba Log-Tec, requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). An answer to this Order or a request for hearing shall not stay the immediate effectiveness of this Order.

If a hearing is requested by Mr. Couffer, dba Log-Tec, or a person whose interest is adversely affected, the Commission shall issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such a hearing shall be whether this Order should be sustained.

For the Nuclear Regulatory Commission.

James M. Taylor,

Deputy Executive Director for Regional Operations.

Dated at Bethesda, Maryland, this 8th day of September 1987.

[FR Doc. 87–21058 Filed 9–11–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 30–22063 License No. 29–20777–01 EA 87–156]

Order Modifying License (Effective Immediately); Precision Materials Corp.

I

Precision Materials Corporation (the "licensee") Replogle Avenue, Mine Hill, New Jersey 07801, is the holder of Byproduct Material License No. 29–20777–01, which authorizes the licensee to possess a maximum of 2,000,000 curies of cobalt-60 as sealed sources for use in a custom designed OMEGA irradiator for irradiation of certain materials. The license was issued by the Nuclear Regulatory Commission (the

"Commission" or "NRC") on March 29, 1985, was most recently amended on January 28, 1986, and is due to expire on March 31, 1990. The licensee currently possesses approximately 320,000 curies of cobalt-60 installed as sealed sources in the irradiator, as well as approximately 30 cubic feet of contaminated resins from the irradiator's pool water demineralizer cleanup system. The resins, which are stored in containers above the irradiator cell, apparently were contaminated when the sources were originally obtained at the facility since the casks used to transport the sources were contaminated.

II

On July 22–23, 1987, an NRC inspection was conducted at the licensee's facility in Mine Hill, New Jersey. Although no violations of NRC regulatory requirements were identified during the inspection, the NRC did learn that water from the irradiator pool was leaking from an unidentified location in the pool. The NRC inspectors obtained samples of the pool water directly from the pool and also from the demineralizer cleanup system. Analysis of those samples found no radioactivity above background, indicating that the encapsulated cobalt-60 sources stored in the pool were not leaking.

During the exit interview at the conclusion of the inspection, the inspectors were informed by the licensee's President that the corporation (1) had insufficient financial resources to continue normal operation of the facility, (2) was anticipating that it would default on its debts, and (3) was considering bankruptcy proceedings.

In view of these inspection findings with respect to the leaking irradiator pool, and the licensee's apparent financial difficulties, the NRC Region I, sent a Confirmatory Action Letter to the licensee on August 6, 1987, to confirm commitments made by the licensee's Comptroller, who was also one of the licensee's three Radiation Safety Officers, in a telephone conversation with Region I on August 5, 1987. Specifically, the licensee committed to:

1. Initiate daily monitoring of the irradiator pool water to assure maintenance of appropriate water level and detection of any radioactive contaminants, record the results of the monitoring, and promptly submit all data collected through September 1, 1987 to the NRC Region I office, with an assessment of the cause of the water leakage as well as planned corrective actions; and,

2. Promptly notify the NRC Region I office of any decision to terminate licensed activities, and conform with the requirements of 10 CFR 30.36(b) regarding such termination.

III

Subsequently, on August 26, 1987, NRC Region I received a telephone call from the licensee's President indicating that the three designated Radiation Safety Officers for the facility (i.e., the President, Vice-President and Comptroller), who are the three individuals with primary technical knowledge concerning operation of the facility, would be resigning as employees of Precision Materials Corporation by September 4, 1987, and that none of the remaining employees had sufficient technical knowledge concerning the facility and its associated safety controls to permit continued operation. As a result, NRC Region I contacted the licensee's Chairman of the Board on August 27, 1987, and he indicated that he was unaware of these planned resignations.

In light of the uncertainty among the licensee's corporate officers toward operation of the facility, the NRC initiated a conference call on August 28, 1987, with the licensee's President (who is also one of the four members of the Board of Directors), the Chairman of the Board, the Chairman's attorney, and a third Board member, to address the licensee's intentions concerning continuation of licensed activities. During this conference call, licensee representatives did not agree on any particular course of action, and the Chairman of the Board and the other Board member both indicated that they (1) had very little knowledge of the technical operation of the facility or the technical aspects of licensed activities; (2) were unaware that the President and other individuals at the facility with knowledge of facility operation were planning to resign; and (3) could not, on such short notice, provide any decision or plan concerning the future of licensed activities at their facility.

Subsequently, on August 31, 1987, NRC Region I personnel met at the licensee's facility with the licensee's President, Vice President, the fourth member of the Board of Directors (who did not participate in the August 28, 1987 conference call) and representatives of, and attorneys for, Midlantic National Bank, the primary creditor of the facility. The Chairman of the Board and remaining Board member were aware of this meeting, but had stated during the August 28, 1987 conference call that they could not attend. The meeting was conducted to discuss the licensee's plans for the facility, including control and disposition of the radioactive material. At the meeting, the NRC was informed that (1) water was leaking from the irradiator pool at a rate of approximately 20 gallons/hour, (2) one of the Radiation Safety Officers (Comptroller) had resigned, effective August 28, 1987, and (3) the other two Radiation Safety Officers (President and Vice President) intended to resign effective September 4, 1987 after placing the irradiator in a shutdown status at that time. No other licensee representative was present to indicate what arrangements, if any, had been made for maintaining the facility in a shutdown status beyond September 4; obtaining qualified replacement personnel; amending the license in light of the departure of key technical personnel required by the license; or developing plans for control and removal of the radioactive material.

During the August 31, 1987 meeting, the Midlantic Bank representatives orally agreed to support the salaries of certain of the current technical and administrative staff at the facility until September 11, 1987 in order to provide more time to resolve issues affecting the disposition of the radioactive material, and in order to permit the licensee to initiate negotiations with other parties for prompt removal and transfer of the radioactive sources from the facility to an authorized recipient.

IV

In light of the current financial status of this licensee, the planned resignations of the President and Vice President (the two remaining Radiation Safety Officers), the apparent lack of sufficient technical knowledge of facility operation by any remaining employee, officer or director of the corporation, and the continuing problem of water leakage from the irradiator pool, the NRC no longer has reasonable assurance that use or storage of licensed material at this facility will be performed safely and in accordance with the terms of the license. Therefore, I have determined that operation of the irradiator should be suspended, and the license should be modified to require that arrangements be made to either provide a basis for resumption of operations, as set forth in Section V below, or to promptly transfer all licensed material to an authorized recipient. Further, pursuant to 10 CFR 2.204, I have determined that public health and safety requires that these actions be made immediately effective.

V

Accordingly, pursuant to Sections 81, 161b., 161c., 161i., and 161o., 182, and 186

of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR Part 30, it is hereby ordered, effective immediately, that license No. 29–20777–01 is modified as follows:

A. Operation of the irradiator is suspended as of close of business September 4, 1987. All radioactive sources shall be placed and maintained in their storage position in the irradiator pool until such time as the sources are placed in NRC-approved storage casks or shipping casks;

B. Within 7 days of the date of this Order, the licensee shall place all radioactive sources in NRC-approved storage casks or shipping casks;

C. Until such time as the sources are placed in NRC-approved storage or shipping casks, the licensee shall perform daily monitoring of the irradiator pool to determine and maintain the water level and detect any radioactive contaminants, and shall notify by phone at 215–337–5280 the Director, or his designee, Division of Radiation Safety and Safeguards, NRC Region I, of the results of the monitoring by close of business of the next business day.

D. Within 30 days of the date of this Order, the licensee shall either:

1. Provide the Regional Administrator, NRC Region I, with a basis for resumption of licensed activities in the form of an application to amend License No. 29–20777–01, and include, as part of that basis:

a. Qualifications of personnel who will be responsible for operation of the facility, and for assuring that the facility is operated safely and in accordance with NRC regulations and the conditions of the license;

b. Plans for performing necessary repairs to the irradiator pool prior to any resumption of operations; and

c. A description of financial resources available to the corporation to allow it to hire qualified personnel, effect necessary repairs, and to resume and conduct licensed activities in a safe manner; or

2. Transfer the radioactive sources to another NRC or Agreement State licensee authorized to receive these sources, and provide the Regional Administrator, NRC Region I, in writing, a plan for assuring that all radioactive waste is transferred to an authorized recipient, the facility is decontaminated in accordance with the requirements set forth in 10 CFR 30.36, and approval for release of the facility for unrestricted use is obtained from the Regional Administrator, NRC Region I.

E. Notify the Director, Division of Radiation Safety and Safeguards, NRC Region I, by telephone, at least 24 hours prior to any movement of the sources from the pool and/or the facility.

The Regional Administrator, NRC Region I, may relax or terminate any of these conditions for good cause.

VI

The licensee or any other person adversely affected by this Order may request a hearing within 30 days after issuance of this Order. Any answer to this Order or any request for hearing shall be submitted to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies shall also be sent to the Assistant General Counsel for Enforcement at the same address and to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region I, 631 Park Avenue, King of Prussia, Pennsylvania 19406. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). Upon the failure of the licensee to answer or request a hearing within the specified time, this Order shall be final without further proceedings. An answer to this order or request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Dated at Bethesda, Maryland, this 4th day of September 1987.

For the Nuclear Regulatory Commission.

James M. Taylor,

Deputy Executive Director for Regional Operations.

[FR Doc. 87–21059 Filed 9–11–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–272, 50–311]

Exemption; Public Service Electric and Gas Company, (Salem Nuclear Generating Station, Units 1 and 2)

I

Public Service Electric and Gas Company (the licensee) holds Facility Operating License Nos. DPR–70 and DPR–75, which authorizes operation of the Salem Nuclear Generating Station, Units No. 1 and No. 2 (the facilities of Salem 1 and 2) at power levels not in excess of 3411 megawatts thermal. The licenses provide, among other things, that the facilities are subject to all rules, regulations, and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facilities are pressurized water reactors located on the licensee's site in Salem County, New Jersey.

II

Paragraph III.D.2(b)(ii) of Appendix J of 10 CFR Part 50 requires, in part, that a full pressure airlock leakage test be performed whenever airlocks are opened and when containment integrity is not required by the plant's Technical Specifications.

III

By letter dated April 11, 1986, the licensee requested a partial Exemption from the requirement of 10 CFR Part 50, Appendix J, III.D.2(b)(ii) identified in II above, and substitution of an airlock door seal leakage test (Paragraph III.D.2(b)(iii) of Appendix J, 10 CFR Part 50) for the full pressure airlock test otherwise required by Paragraph III.D.2(b)(ii) when the airlock is opened while the reactor is in cold shutdown (Mode 5) or refueling (Mode 6), if no maintenance has been performed on the airlock that could affect its sealing capability.

By letters dated August 29, 1986, and March 13, 1987, the licensee requested a slightly revised exemption that would additionally allow the door seal leakage rate test of III.D.2(b)(iii) to be used when the maintenance affecting the airlocks sealing capability was performed only on the door gaskets. That is, door seal testing will be done after each opening, after maintenance which could affect the airlock door gaskets, and prior to establishing containment integrity. If maintenance that could affect sealing capability has been performed on an airlock, other than the door gaskets, a full pressure airlock test must still be performed.

If an airlock is opened during Modes 5 and 6, Paragraph III.D.2(b)(ii) of Appendix J requires that an overall airlock leakage test at not less than the calculated peak containment pressure from a design-basis LOCA (Pa) be conducted before plant heatup and startup (i.e., entering Mode 4). The existing airlock doors are so designed that a full-pressure (i.e., Pa = 47.0 psig) test of an entire airlock can only be performed after strongbacks (structural bracing) have been installed on the inner door. Strongbacks are needed because the pressure exerted on the inner door during the test is in a direction opposite to that of the accident pressure direction. Installing strongbacks, performing the test, and

removing strongbacks requires at least 8 hours per airlock (there are two airlocks) during which access through the airlock is prohibited.

If the periodic 6-month test of paragraph III.D.2(b)(i) of Appendix J and the test required by paragraph III.D.2(b)(iii) of Apendix J are current, no maintenance (other than to door gaskets) has been performed on the airlock that could affect its sealing capability, the airlock is properly sealed, there is no reason to expect the airlock to leak excessively just because it has been opened in Mode 5 or Mode 6.

Accordingly, the Commission concludes that the licensee's proposed aproach of substituting the seal leakage test of paragraph III.D.2(b)(iii) for the full pressure test of paragraph III.D.2(b)(ii) of Appendix J is acceptable following door gasket maintenance and/or prior to entering Mode 4. Furthermore, the licensee has committed to meet the requirements of paragraph III.D.2(b)(ii) of Appendix J whenever other maintenance that could affect sealing capability has been performed on the airlock.

The special circumstances for granting this exemption pursuant to 10 CFR 50.12 have also been identified. The purpose of paragraph III.D2(b)(ii) is to ensure that airlocks are properly sealed when containment integrity is required. The proposed alternative test method is sufficient to achieve this underlying purpose in that it provides adequate assurance of continued leaktight integrity of the airlock. Consequently, the special circumstances described by 10 CFR 50.12(a)(2)(ii) and (iii) exist in that application of the regulation in these particular circumstances is not necessary to achieve the underlying purpose of the rule in that the licensee has proposed an acceptable alternative test method that accomplishes the intent of the regulation. Compliance would result in undue hardship that would be significantly in excess of that contemplated when the regulation was adopted in that plant startup would be delayed while an overall airlock leakage test was performed at full pressure. The effort and delay required is not warranted by the resulting safety benefit.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, these exemptions are authorized by law will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determines that special circumstances described by 10 CFR 50.12(a)(2)(ii) and (iii) exist in that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule in that Public Service has proposed an acceptable alternative test method that accomplishes the intent of the regulation.

Accordingly, the Commission hereby grants the exemption as described in Section III above from 10 CFR Part 50, Appendix J, III.D.2(b)(ii).

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this Exemption will have no significant impact on the environment (52 FR 29101, August 5, 1987).

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 4th day of September 1987.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 87-21060 Filed 9-11-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-87]

Proposed Issuance of Orders Authorizing Disposition of Component Parts and Terminating Facility License; Westinghouse Electric Corporation Nuclear Training Reactor

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of Orders authorizing Westinghouse Electric Corporation (Westinghouse or the licensee) to dismantle the reactor facility and dispose of the component parts, and termination of Facility Operating License No. R-119, in accordance with the licensee's application dated July 8, 1987.

The first of these Orders would be issued following the Commission's review and approval of the licensee's detailed plan for decontamination of the facility and disposal of the radioactive components, or some alternate disposition plan for the facility. This Order would authorize implementation of the approved plan. Following completion of the authorized activities and verification by the Commission that acceptable radioactive contamination levels have been achieved, the Commission would issue a second Order terminating the facility license and any further NRC jurisdiction over the facility. Prior to issuance of each Order, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By October 14, 1987, the licensee may file a request for a hearing with respect to issuance of the subject Orders and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the action under consideration. A

petitioner who fails to file such a supplement which satisifies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Lester S. Rubenstein: petitioner's name and telephone number; date petition was mailed; Westinghouse; and publication date and page number of the **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Ms. Carol Dalcanton, Westinghouse Electric Corporation, P.O. Box 355, Pittsburgh, Pennsylvania 15230, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitioner, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the licensee's application dated July 8, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC.

Dated at Bethesda, Maryland, this 8th day of September 1987.

For the Nuclear Regulatory Commission.

Lester S. Rubenstein,

Director, Standardization and Non-Power Reactor Project Directorate, Division of Reactor Projects III, IV, V and Special Projects, Office of Nuclear Regulation.

[FR Doc. 87–21061 Filed 9–11–87; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

SES Performance Review Board

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: Notice is hereby given of the name of a new member of the OPM Performance Review Board.

DATE: August 31, 1987.

FOR FURTHER INFORMATION CONTACT: Anne A. Andrews, Policy Development Branch, Office of Personnel and EEO, Administration Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415 (202) 632–9402.

SUPPLEMENTARY INFORMATION: Section 4314(c) (1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES performance review boards. The board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

Office of Personnel Management.

James E. Colvard,

Deputy Director.

The following Senior Executive Service member has been selected to fill a vacancy on the Performance Review Board of the Office of Personnel Management:

Leonard R. Klein, Deputy Associate Director for Career Entry.

[FR Doc. 87–21026 Filed 9–11–87; 8:45 am]

BILLING CODE 6325–01–M

President's Commission on Compensation of Career Federal Executives; Meeting

AGENCY: Office of Personnel Management.

ACTION: Notice of closed portion of a meeting.

SUMMARY: As set out in a notice published in the **Federal Register** on August 27, 1987 (52 FR 32368), the President's Commission on Compensation of Career Federal Executives is holding its first meeting on September 17, 1987, beginning at 12:00 noon, in room 4830 of the Department of Commerce, located at 14th and Constitution Avenue, NW., Washington, DC. According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the first hour of that meeting will be closed so that the Commission can discuss internal personnel rules and practices.

In accordance with section 10(d) of the Federal Advisory Committee Act and 41 CFR 101.6.1023, I have determined that the request of the Commission to close the first hour of this meeting is consistent with both that Act and the Government in the Sunshine Act (Pub. L. 94–409) at 5 U.S.C. 552b. Under those statutes, portions of the meetings of Commissions such as this one can be closed in certain limited circumstances. One of those circumstances is when a portion of the meeting is likely to relate solely to internal personnel rules and practices. The Government in the Sunshine Act, as made applicable to this Commission by the Federal Advisory Committee Act, provides, at 5 U.S.C. 552b(c)(2), such an exemption to the requirement that meetings be open to the public.

The Commission has requested that the first hour of its first meeting be closed so that the Commission members can discuss internal personnel rules and practices that must be reviewed before the Commission can begin its work. I have determined that the Commission has demonstrated the need to close that portion of its first meeting in accordance with the aforementioned exemption to the Government in the Sunshine Act.

FOR FURTHER INFORMATION CONTACT: Steven Gleason, Executive Director, President's Commission on Compensation of Career Federal Executives, Office of Personnel Management, 1900 E Street, NW., Room 5554, Washington, DC 20415, 632–8703.

OFFICE OF PERSONNEL MANAGEMENT

Constance Horner,

Director.

[FR Doc. 87–21216 Filed 9–11–87; 10:29 am]

BILLING CODE 6325–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments should be submitted within 30 days of this publication in the **Federal Register**. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (S.F. 83s), supporting statements, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: William Cline, Small Business Administration, 1441 L Street NW., Room 200, Washington, DC 20416, Telephone: (202) 653–8538

OMB Reviewer: Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395–7340

Title: Reporting and Recordkeeping Requirements on Lenders
Frequency: On occasion
Description of Respondents: Information is necessary for SBA to communicate with lender in the processing and servicing of loans.
Annual Responses: 2,410
Annual Burden Hours: 4,820
Type of Request: Extension

Title: Application for Business Loans
Frequency: On occasion
Description of Respondents: The application contains information needed to make sound credit decision in accordance with SBA lending authority. It includes the identity and address of applicant, the loan amount and its use, previous government financing, financial and management data, agreements and certifications which would be in effect if the loan is made.
Annual Responses: 28,000
Annual Burden Hours: 560,000
Type of Request: Extension

Title: Debt Collection Activities and Financial Statement of Debtor
Form No. SBA 770
Frequency: On occasion
Description of Respondents: The financial information on the SBA Form 770 is necessary in making a determination regarding the compromise of claims and other liquidation proceedings including litigation by the Agency and the Department of Justice. The Debt Collection Activities involve communications with existing borrowers of SBA who have defaulted in scheduled loan repayment.
Annual Responses: 182,000
Annual Burden Hours: 182,000
Type of Request: Extension

Title: Other Borrower Reports, Records, and Request
Frequency: On occasion
Description of Respondents: A variety of the requests for change in the loan agreement are requested by the borrowers. These requests and the submission of financial statements by borrowers are received and examined by SBA loan officers. If such requirements were not made of the borrower, the Government would be denied the opportunity to react to early signs of financial difficulty and adverse situations.
Annual Responses: 250,000
Annual Burden Hours: 187,500
Type of Request: Extension

William Cline,

Chief, Administrative Information Branch, Small Business Administration.

September 9, 1987.

[FR Doc. 87–21093 Filed 9–1–87; 8:45 am]

BILLING CODE 8025–01–M

[Application No. 03/03–0184]

Application for a Small Business Investment Company License; Fidelcor Capital 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.) (the Act) has been filed by Fidelcor Capital Corp. (the Applicant), 123 S. Broad Street, Philadelphia, Pennsylvania 19109, with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1987).

The officers, directors and sole shareholder or the Applicant are as follows:

Bruce H. Luehrs, President/Director, 428 Owen Road, Wynnewood, Pennsylvania 19096

Elizabeth T. Crawford, Vice President/Treasurer, 75 Militia Hill Dr., Wayne, Pennsylvania 19087

Robert E. Keith, Jr., Director, 749 Campwoods Road, Villanova, Pennsylvania 19085

Mark J. DeNino, Director, 138 Montrose Ave., #49, Rosemont, Pennsylvania 19401

Gerald Blum, Director, 360 East 72nd Street, New York, New York 10021

Fidelcor Capital Management Corp., Investment Advisor, 123 S. Broad Street, Philadelphia, Pennsylvania 19109

Fidelcor Inc., Sole Stockholder, 123 S. Broad Street, Philadelphia, Pennsylvania 19109

The Applicant will be a wholly owned subsidiary of Fidelcor, Inc., a bank holding company within the meaning of the Bank Holding Company Act of 1956. The Officers and Directors of the Investment Advisor are identical to those of the applicant. There is no person known to hold beneficially 10 percent or more of the voting securities Fidelcor, Inc.

The Applicant, a Commonwealth of Pennsylvania Corporation, will begin operations with $15,000,000 of paid-in capital and paid-in surplus. The Applicant will conduct its activities primarily in the Delaware Valley area but will consider investments in businesses in other areas of the United States.

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 adequate 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 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 Street NW., Washington, DC 20416.

A copy of this Notice shall be published in a newspaper of general circulation in the Philadelphia, Pennsylvania area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 4, 1987.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 87-21092 Filed 9-11-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed During the Week Ending September 4, 1987

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et. seq.*). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 45121

Date Filed: September 1, 1987.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: September 29, 1987.

Description: Application of Compagnie Aeromaritime D'Affretement, pursuant to section 402 of the Act and Subpart Q of the Regulations applies for a foreign air carrier permit to conduct U.S.-France passenger and cargo charter flights.

Docket No. 45122

Date Filed: September 2, 1987.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: September 30, 1987.

Description: Application of Taquan Air Service, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations applies for a certificate of public convenience and necessity to engage in interstate air transportation (Points in Alaska).

Docket No. 45123

Date Filed: September 2, 1987.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: September 30, 1987.

Description: Application of American Airlines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations applies for renewal of its certificate of public convenience and necessity for Route 370 (Dallas/Ft. Worth-London).

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 87-21070 Filed 9-11-87; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD 87-066]

Meeting of the Subcommittee on Vapor Control, Chemical Transportation Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Subcommittee on Vapor Control of the Chemical Transportation Advisory Committee (CTAC). The Subcommittee is considering requirements for tank vessels and waterfront facilities which use vapor control systems. The meeting will be held on Thursday, October 8, 1987 and Friday, October 9, 1987, in Rooms 8A, B, and C, Federal Building 10A, 800 Independence Avenue, SW., Washington, DC. The meeting is scheduled to begin at 9:00 a.m. and end at 5:00 p.m. on Thursday, and begin at 8:00 a.m. and end at 3:00 p.m. on Friday. The agenda for the meeting follows:

1. Call to order.
2. Opening remarks.
3. Review and approval of the minutes of the last meeting.
4. Presentation of technical papers relating to vapor control systems and their components.
5. Discussion on design principles, necessary technology development, and the necessary safety features for vapor control systems.
6. Assignment of Subcommittee work.
7. Adjournment.

Attendance is open to the public. Members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Director of CTAC no later than five days before the meeting. Any member of the public may present a written statement to the Subcommittee at any time.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander R.H. Fitch, U.S. Coast Guard Headquarters (G-MTH-1), 2100 Second Street SW., Washington, DC 20593-0001, (202) 267-1217.

Dated: September 9, 1987.

J.W. Kime,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 87-21102 Filed 9-11-87; 8:45 am]

BILLING CODE 4910-14-M

[CGD 87-067]

Houston/Galveston Navigation Safety Advisory Committee

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of the Fifteenth meeting of the Houston/Galveston Navigation Safety Advisory Committee. The meeting will be held on Thursday, September 24, 1987 in the conference room of the Houston Pilots Office, 8150 South Loop East, Houston, Texas. The meeting is scheduled to begin at approximately 9:30 a.m. and end at approximately 1:00 p.m. The agenda for the meeting consists of the following items:

1. Call to Order.
2. Discussion of previous recommendations made by the Committee.
3. Presentation of any additional new items for consideration of the Committee.
4. Adjournment.

The purpose of this Advisory Committee is to provide recommendations and guidance to the Commander, Eighth Coast Guard District on navigation safety maters affecting the Houston/Galveston area.

Attendance is open to the public. Members of the public may present written or oral statements at the meeting.

Additional information may be obtained from Commander V. O. Eschenberg, USCG, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (m), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130-3396, telephone number (504) 589-6901.

Dated: August 10, 1987.

J.D. Sipes,

Captain, U.S. Coast Guard, Acting Commander, 8th Coast Guard District.

[FR Doc. 87-21103 Filed 9-11-87; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Functions; Flight Service Station Closure; Dodge City, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Flight Service Station Closure; Dodge City, Kansas.

SUMMARY: Notice is hereby given that on August 1, 1987, the Flight Service Station at Dodge City, Kansas, was closed. Hereafter, services to the general public at Dodge City, Kansas, will be provided by the Flight Service Station at Wichita, Kansas. This information will be reflected in the next issue of the FAA Organizational Statement.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

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

Clarence E. Newbern,

Acting Manager, Air Traffic Division.

[FR Doc. 87-21010 Filed 9-11-87; 8:45 am]

BILLING CODE 4910-13-M

Functions; Flight Service Station Closure, Emporia, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Flight Service Station Closure; Emporia, Kansas.

SUMMARY: Notice is hereby given that on August 2, 1987, the Flight Service Station at Emporia, Kansas, was closed. Hereafter, services to the general public at Emporia, Kansas, will be provided by the Flight Service Station at Wichita, Kansas. This information will be reflected in the next issue of the FAA Organizational Statement.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

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

Clarence E. Newbern,

Acting Manager, Air Traffic Division.

[FR Doc. 87-21011 Filed 9-11-87; 8:45 am]

BILLING CODE 4910-13-M

Functions; Flight Service Station Closure, Hill City, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Flight Service Station Closure; Hill City, Kansas.

SUMMARY: Notice is hereby given that on August 1, 1987, the Flight Service Station at Hill City, Kansas, was closed. Hereafter, services to the general public at Hill City, Kansas, will be provided by the Flight Service Station at Wichita, Kansas. This information will be reflected in the next issue of the FAA Organizational Statement.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

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

Clarence E. Newbern,

Acting Manager, Air Traffic Division.

[FR Doc. 87-21012 Filed 9-11-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket No. 87-9]

National Bank Capital Forbearance Policies

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of Revised Policy Statement on Capital Forbearance.

SUMMARY: The Office of the Comptroller of the Currency (Office or OCC) has revised its policy statement on national bank capital forbearance through issuance of Office Banking Circular (BC-212 Supplement #2). This notice is intended to provide persons in related industries, who would not normally receive copies of banking circulars, with the text revising the capital forbearance policy.

DATE: BC-212 Supplement #2 was dated July 7, 1987.

FOR FURTHER INFORMATION CONTACT: Jon Nagy, National Bank Examiner, Commercial Activities Division, (202) 447-1164), Office of the Comptroller of the Currency, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: On March 28, 1986, the Office promulgated BC-212 containing its national bank capital forbearance policies. On April 23, 1986, the Office published in the **Federal Register** those same forbearance policies (51 FR 15305). Under BC-212, and similar actions by the Federal Deposit Insurance Corporation (FDIC) and the Board of governors of the Federal Reserve System, capital forbearance was available to well-managed banks with loan concentrations in the agricultural or oil and gas sectors of the economy. Banks could apply for capital forbearance only until the end of 1987.

Since banks are continuing to experience problems as a result of a protracted recovery in some economic sectors, the Office, on July 7, 1987, issued Banking Circular BC-212 Supplement #2. That Supplement amends the capital forbearance policy guidelines and make them more flexible. The FDIC guidelines (51 FR 26182) were issued on July 13, 1987.

In announcing the Office's changes, the Comptroller stressed that the bank regulators would not use the capital forbearance guidelines to permit insolvent banks to remain open and cautioned that low capital ratios may threaten a bank's survival. More than two-thirds of the national banks with less than four percent total capital at year-end 1985 failed within 18 months.

The major changes in the capital forbearance guidelines are:

- The deadline for applying for capital forbearance is extended two years to December 31, 1989; the period during which capital must be restored to normal levels is also extended two years to January 1, 1995.
- Capital forbearance will no longer be limited to banks that meet the definition of agricultural or oil and gas banks. Instead, capital forbearance may be approved for banks that can demonstrate that their difficulties are primarily the result of economic problems beyond bank management's control. Capital forbearance will not be approved for banks whose problems are the result of insider abuse, mismanagement, etc.
- A bank will no longer have to have a minimum primary capital ratio of four percent to qualify for capital forbearance.
- The Office will not take enforcement actions concerning capital against banks that have been granted forbearance; however, the Office will not take enforcement actions concerning capital against banks that have been granted forbearance; however, the Office may take enforcement actions dealing with other safety and soundness concerns during the capital forbearance period.

The full text of (A) the Office's transmittal letter and (B) BC-212, the revised guidelines, follow:

A. OCC Transmittal Letter Dated July 7, 1987

To: Chief Executive Officers of the Bank Addressed

Subject: Revised Capital Forbearance Policy

The Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) are amending their capital forbearance guidelines.

From early 1986, the OCC, the FDIC and the Board of Governors of the Federal Reserve System adopted a joint statement of policy with respect to capital problems being experienced by certain banks heavily impacted by depressed economic conditions in agricultural sectors of the economy. That policy, which was subsequently extended to include banks with concentrations of loans relating to the oil and gas industry, was intended to provide temporary relief to

qualifying banks from normal capital requirements, where such capital levels have been depleted largely as a result of loan losses attributable to economic conditions in the markets served by such banks. OCC guidelines for implementation of the capital forbearance portion of the policy were published in Banking Circular 212 dated March 28, 1986. Under the policy, banks were given until December 31, 1987 to seek approval for capital forbearance.

While some improvements in the economies of the agricultural and oil and gas regions of the country have occurred, there are still a number of banks in those areas which continue to suffer from slow economic recovery. Consequently, the OCC believes that an extension of the expiration date for obtaining capital forbearance is warranted. Numerous affected banks have utilized the policy, but it could be further strengthened by broadening its applicability.

Therefore, the OCC and the FDIC have decided to amend their capital forberance guidelines effective immediately.

All eligible banks are encouraged to apply for the capital forbearance program. Some bankers have expressed concern that an application for capital forbearance would trigger an examination or administrative action against the bank. Applying will not normally trigger immediate examinations or administrative actions. Banks should expect, as a normal rule, to remain under the same examination schedule. However, an administrative action, if appropriate, could be taken if unsafe or unsound practices are discovered.

The major changes to the existing guidelines are:

(a) The deadline for obtaining approval for capital forbearance is extended two years to December 31, 1989 and correspondingly, the period during which capital must be returned to normal levels is also extended two years to January 1, 1995.

(b) The program will no longer be limited to banks that meet the definition of an agricultural/oil and gas bank. Any bank is a candidate for capital forbearance if it can be demonstrated that its difficulties are primarily attributed to economic problems beyond the control of management.

(c) The minimum capital to asset ratio set forth in the orginal guidelines has been eliminated.

While the revised guidelines have eliminated the requirement that banks must have capital to asset ratios equal to or greater than 4 percent, banks seeking capital forbearance should be aware that: (a) Capital forbearance will not be approved for insolvent institutions and (b) capital plans must offer reasonable assurance of restoration of capital. Prospects for approval of capital forbearance for banks with low capital ratios would be enhanced if the capital plan contemplates an external infusion of capital over the course of the forbearance period.

The full text of the revised guidelines is attached.

(signed)

Robert L. Clarke,

Comptroller of the Currency.

B. Banking Issuance: Banking Circular BC–212 Supplement #2 Dated July 7, 1987

To: Chief Executive Officers of All National Banks, Deputy Comptrollers, Department and Division Heads, and Examining Personnel

I. Introduction

The OCC recongize that banks serving an undiversified economic sector of the economy may be unusually adversely affected if that sector experiences a severe, unexpected and protracted downturn. Such banks may not be able to raise needed capital because of the temporary unattractiveness of the institutions and/or their market area. These conditions may exist even though bank management followed prudent banking practices and had a successful performance record prior to the economic downturn. In light of these circumstances, the OCC has modified its guidelines for capital forbearance to provide greater operational flexibility to banks, with concentrations in weak economic sectors, that are well managed, solvent and viable.

This Banking Issuance revises and replaces Section III and eliminates Attachment A of Banking Circular 212, dated March 28, 1986.

II. Revised Capital Forbearance Guidelines

The revised capital forbearance guidelines are effective immediately. Banks may request capital forbearance at any time through December 31, 1989 and must have restored their capital to normal levels on or before January 1, 1995. Forbearance means the OCC will not issue a capital directive (12 CFR Part 3) to enforce normal capital standards, nor will the OCC take formal administrative action under 12 USC 1818(b) to enforce these capital standards or to obtain other corrective actions relating to capital adequacy, provided bank management does not engage in abusive, unsafe or unsound practices and the bank meets, initially and on a continuing basis, the following qualifications and conditions:

1. The bank's weakened capital must be largely the result of problems in the economy beyond bank management's control and not due to self-dealing, excessive operating expenses, excessive dividends, actions taken solely for the purpose of qualifying for capital forbearance, or other instances of significant mismanagmeent or ownership abuse.

2. The bank must provide a plan acceptable to the OCC for restoring capital, by not later than January 1, 1995, to the normal capital standards (12 CFR Part 3). This plan should specifically address dividend levels; compensation to directors, executive officers or individuals who have a controlling interest; and payments for services or products furnished by affiliated companies. The plan should provide for realistic improvement in the bank's primary capital ratio, over the course of the forbearance period, from earnings, capital injections, asset shrinkage, or a combination thereof.

3. The OCC must be satisfied that bank management is competent and willing to address the bank's problems and can successfully implement the plan to restore adequate capital.

4. The bank must agree to file an annual progress report with the OCC regarding its capital plan. Depending on an individual bank's progress, more frequent reports and/or a modified capital plan may be required.

Banks seeking capital forbearance should make a written request to the District Office of the OCC in the district in which the bank is located. The request should reflect a need for forbearance, contain an explanation of its eligibility to participate and include a capital improvement plan. Capital forbearance will be granted unless, within 60 days of receipt of the request, the OCC notifies the bank that its request has been denied or informs that bank that additional information is needed.

Existing administrative actions against banks for which capital forbearance has been approved will remain in effect. However, capital provisions contained within these administrative actions shall be deemed to have been modified by the approval of capital forbearance.

The OCC reserves the right to terminate capital forbearance for banks engaged in unsafe and unsound or other objectionable practices, or if it becomes apparent that the bank is unable to comply with its capital plan, or any modification of such plan.

We anticipate that Part VI, Lending Limits of Banking Circular 212 will be modified to extend the date lending limits will be relaxed to December 31, 1989.

Other provisons of Banking Circular 212 dated March 28, 1986 remain in effect.

III. Originating Office

Questions regarding this Banking Circular may be directed to the Chief National Bank Examiner's Office, Commercial Activities Division, Washington, DC 20219 (202) 447–1164.

(signed) Robert L. Clarke,

Comptroller of the Currency.

Dated: September 2, 1987.

[FR Doc. 87–21065 Filed 9–11–87; 8:45 am]

BILLING CODE 4810-33-M

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

Scholarships; Closing Date for Nominations from Eligible Institutions of Higher Education

Notice is hereby given that, pursuant to the authority contained in the Harry S. Truman Memorial Scholarship Act, Pub. L. 93–642 (20 U.S.C. 2001), nominations are being accepted from eligible institutions of higher education for Truman Scholarships. Procedures are prescribed at 45 CFR Part 1801, and were published in the **Federal Register** on June 19, 1976 (43 FR 26366).

In order to be assured of consideration, all documentation in support of nominations must be received by the Truman Scholarship Review Committee, CN 6302, Princeton, NJ 08541–6302 postmarked no later than Tuesday, December 1, 1987.

Malcolm C. McCormack,

Executive Secretary.

[FR Doc. 87–21042 Filed 9–11–87; 8:45 am]

BILLING CODE 9500-01-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Art of Rosso Fiorentino

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1987 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby detemine that the objects to be included in the exhibit, "The Art of Rosso Fiorentino" (see list [1]) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art in Washington, DC, beginning on or about October 25, 1987, to on or about January 3, 1988, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

John A. Lindburg,

Acting General Counsel

[FR Doc. 87–21156 Filed 9–11–87; 8:45 am]

BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

Agency Form Letter Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

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 13, 1987.

Dated: September 8, 1987.

By direction of the Administrator.

David A. Cox,

Associate Deputy Administrator for Management.

Extension

1. Department of Veterans Benefits
2. Equal Opportunity Compliance Review Report
3. VA Form 27–8734
4. This information is used to gather information from proprietary post-secondary schools at less than college level to help determine compliance with equal opportunity laws and Agency regulations.
5. Annually
6. State or local governments; and Busineses or other for-profit
7. 136 responses
8. 136 hours
9. Not applicalbe

Extension

1. Department of Veterans Benefits
2. Application for Amounts on Deposit for Deceased Veteran
3. VA Form 21–6898
4. This information is necessary to determine the proper payee of gratuitous benefits deposited by VA into the Personal Funds of Patients for a veteran during hospitalization and due the veteran at the time of death.
5. On occasion
6. Individuals or households
7. 700 responses
8. 175 hours
9. Not applicable

Extension

1. Department of Veterans Benefits
2. Consumer Sampling Letter
3. VA Form Letter 27–652
4. This information is needed to determine the quality of assistance provided by Veterans Assistance Services in VA Regional Offices to veterans and their dependents.
5. On occasion
6. Individuals or households
7. 15,294 responses
8. 1,275 hours
9. Not applicable.

[FR Doc. 87–21032 Filed 9–11–87; 8:45 am]

BILLING CODE 8320-01-M

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

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 of staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) a description of the need and its use, (5) how often the form must be filled out, (6) who will be required or asked to report, (7) an estimate of the number of responses, (8) an estimate of the total number of hours needed to fill out the form, and (9) an indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained from Pattie 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 13, 1987.

Dated: September 9, 1987.

[1] A copy of this list may be obtained by contacting Mr. John Lindburg of the Office of the General Counsel of USIA. the telephone number is 202–485–7976, and the address is Room 700, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547.

By direction of the Administrator.

David A. Cox,

Associate Deputy Administrator for Management.

Extension

1. Department of Veterans Benefits

2. Statement of Marital Relationship.

3. VA Form 21–4170.

4. This information is needed to determine eligibility for gratuitous death benefits as the widow(er) of a veteran.

5. On occasion.

6. Individuals or households.

7. 6,000 responses.

8. 3,000 hours.

9. Not applicable.

Extension

1. Department of Veterans Benefits

2. Fuel and Heating Systems Inspection Report (Manufactured Home).

3. VA Form 26–8731c.

4. This information is used to determine acceptability of used manufactured homes for VA guaranteed home loans.

5. On occasion.

6. Individuals or households; Businesses or other for-profit; and Small businesses or organizations.

7. 1,000 responses.

8. 2,000 hours.

9. Not applicable.

Extension

1. Department of Medicine and Surgery

2. Chiropractic Services Pilot Program.

3. VA Form 10–20838A through F (NR).

4. This information is needed to respond to the Congressional mandate to conduct a pilot program to evaluate the benefits and cost-effectiveness of providing chiropractic services to eligible veterans.

5. On occasion.

6. Individuals or households; Federal agencies or employees; and Small businesses or organizations.

7. 4,785 responses.

8. 3,075 hours.

9. Not applicable.

[FR Doc. 87–21105 Filed 9–11–87; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 177
Monday, September 14, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:45 a.m. on Wednesday, September 9, 1987, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider a plan for financial assistance, pursuant to section 13(c) of the Federal Deposit Insurance Act, for First City Bancorporation of Texas, Inc., Houston, Texas.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matter 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 matter in a meeting open to public observation; and that the matter could be considered in a close meeting pursuant to subsection (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)).

The meeting was held in the Board Room of the FDIC Building located at 550 17the Street NW., Washington, DC.

Dated: September 9, 1987.
Federal Deposit Insurance Corporation.
Margaret M. Olsen,
Deputy Executive Secretary.

[FR Doc. 87-21164 Filed 9-10-87; 12:40 pm]
BILLING CODE 6714-01-M

Corrections

Federal Register
Vol. 52, No. 177
Monday, September 14, 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 COMMERCE

International Trade Administration

[A-122-006]

Final Results of Antidumping Duty Administrative Review; Steel Jacks From Canada

Correction

In notice document 87-20057 beginning on page 32957 in the issue of Tuesday, September 1, 1987, make the following correction:

On page 32958, in the third column, in the table, in the right hand column, in the first line, "23.35" should read "28.35".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87F-0240]

Filing of Food Additive Petition; Foodways National, Inc., and NutraSweet Co.

Correction

In notice document 87-19133 beginning on page 31667 in the issue of Friday, August 21, 1987, make the following correction:

On page 31667, in the third column, in the **SUMMARY**, in the eighth line, insert "toppings" after "frostings,".

BILLING CODE 1505-01-D

Federal Register

Monday
September 14, 1987

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 21, 23, 36, 91, and 135
Airworthiness Standards and Operating Rules; Commuter Category Airplanes; Correction of Final Rule

Monday
September 16, 1996

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 21, 23, 39, 91, and 135
Airworthiness Standards and Operating Rules; Commuter Category Airplanes; Correction of Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21, 23, 36, 91, and 135

[Docket No. 23516; Amdt. Nos. 21-59, 23-24, 36-13, 91-197, and 135-21]

Airworthiness Standards and Operating Rules; Commuter Category Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Correction of final rule.

SUMMARY: This document contains corrections to final regulations that were published in the **Federal Register** on January 15, 1987 (52 FR 1806) as Airworthiness Standards and Operating Rules; Commuter Category Airplane. These rules relate to the adoption of certification procedures, airworthiness and noise standards, and operating rules for an additional category of propeller-driven, multiengine airplane, designated as the Commuter Category.

EFFECTIVE DATE: September 14, 1987.

FOR FURTHER INFORMATION CONTACT: Mary Medley, Standards Office, ACE-110, Aircraft Certification Division, Central Region, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION: When Amendment Nos. 21-59, 23-34, 36-13, 91-197, and 135-21 were published in the **Federal Register**, several errors and text omissions occurred. For completeness of text and accuracy of information, it is necessary to correct these errors.

Need for Immediate Adoption

Since these amendments only correct errors and impose no additional burden on any person, I find that notice and public procedure are unnecessary and contrary to the public interest and that good cause exists for making it effective in less than 30 days.

Correction of Publication

Accordingly, in addition to the corrections published in the **Federal Register** on March 9, 1987 (52 FR 7262), the publication of Amendment Nos. 21-59, 23-34, 36-13, 91-197, and 135-21 in the **Federal Register** issue of January 15, 1987 (52 FR 1806), is corrected as follows:

§ 23.3 [Corrected]

1. On page 1825, third column, § 23.3(a), in line four, the word "certificate" is corrected to read "certificated"; and in third column § 23.3(e), line two, the word "part" is corrected to read "Part".

§ 23.53 [Corrected]

2. On page 1826, second column, § 23.53(b)(2)(ii), in the second line, the word "safer" is corrected to read "safe"; third column, § 23.53(c)(2), in the sixth line, the reference to "$1.2VV_{s1}$" is corrected to read "$1.2V_{s1}$"; and on page 1826, third column, § 23.53(c)(6), in the tenth line, the reference to "V_V" is corrected to read "V_R".

§ 23.65 [Corrected]

3. On page 1827, third column, § 23.65(d), in the fourth line, the word "temperatures" is corrected to read "temperature".

§ 23.67 [Corrected]

4. On page 1827, third column, § 23.67(e)(1), in the fourth line, the words "paragraphs (i) and (ii)" is corrected to read "(i) and (ii) of this paragraph".

5. On page 1828, first column, § 23.67(e)(3), in the fourth line, the reference to "V_{S4}" is corrected to read "V_{S1}".

6. On page 1828, second column, paragraph no. 16, in the fourth line, remove the phrase "and by adding an "s" to the word "airplane" in paragraph (a)"; and in line seven, same paragraph, remove the phrase "by adding an "s" to the word "airplane" in the first part of the sentence in paragraph (b)".

§ 23.335 [Corrected]

7. On page 1829, second column, § 23.335(d)(1), in the sixth line, "$\sqrt{(n_g)}$ V_{S1} is corrected to read "$\sqrt{(n_g)}V_{S1}$".

§ 23.443 [Corrected]

8. On page 1830, first column, § 23.443(b), the fifth line, insert a comma between "V_C" and "V_D"; and in line nine, insert a period after the word "investigated".

9. On page 1830, first column, insert before amendatory statement number 26 an amendatory statement that reads:

§ 23.561 [Corrected]

25-1. Section 23.561(b)(2) is amended by changing the title of the first column of the table, that now reads "Normal and utility categories" to read "Normal, utility, and commuter categories".

§ 23.787 [Corrected]

10. On page 1831, first column, § 23.787(g)(2), in the fourth line, "(b)" is corrected to read "(b), (d), (e),".

§ 23.901 [Corrected]

11. On page 1832, second column, § 23.901(b)(3), in the first line, "In addition, for" is corrected to read "For" and in the third line, "the engine installation must not" is corrected to read "not".

§ 23.1199 [Corrected]

12. On page 1833, second column, § 23.1199(c), in the first line, "A means" is corrected to read "A means must be provided".

§ 23.1305 [Corrected]

13. On page 1833, third column, § 23.1305(k)(2), in the first line, insert "turbine engine of" after "Each" and before "turbine-powered".

§ 23.1323 [Corrected]

14. On page 1834, first column, § 23.1323(c), in the first line, "commuter" is corrected to read "commuter category".

§ 23.1351 [Corrected]

15. On page 1834, first column, § 23.1351, in the first line, remove the five asterisks; and in § 23.1351(a)(2), in the first line, the word "subparagraph" is corrected to read "paragraph".

16. On page 1834, second column, § 23.1351(b)(5)(v), in the second line, "this paragraph" is corrected to read "paragraph (b)(5) of this section".

Appendix F—[Corrected]

17. On page 1835, second column, Appendix F to Part 23, paragraph (d), in the 13th line, "1550 degrees F" is corrected to read "1550°F" to be consistent with paragraph (e), line twelve.

Appendix G—[Corrected]

18. On page 1835, third column, in Appendix G to Part 23, after the title and before "G23.3 Content" insert five asterisks to indicate retention of existing regulatory material.

§ 135.169 [Corrected]

19. On page 1836, column three, § 135.169(b), in the fifth line, "or" is corrected to read "of".

Issued in Washington, DC on September 4, 1987.

T. Allan McArtor,

Administrator.

[FR Doc. 87-20886 Filed 9-11-87; 8:45 am]

BILLING CODE 4910-13-M

federal register

Monday
September 14, 1987

Part III

Department of Commerce

National Oceanic and Atmospheric Administration

15 CFR Part 971

Deep Seabed Mining; Regulations for Commercial Recovery and Revision of Regulations for Exploration; Supplemental Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 971

[Docket No. 50712-7186]

Deep Seabed Mining; Regulations for Commercial Recovery and Revision of Regulations for Exploration

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Supplemental proposed rule.

SUMMARY: Pub. L. 96-283, the Deep Seabed Hard Mineral Resources Act (the Act) authorizes the Administrator of the National Oceanic and Atmospheric Administration (NOAA) to issue to eligible United States citizen applicants, licenses for exploration for and permits for the commercial recovery of deep seabed hard mineral resources. The Act also requires that NOAA issue regulations with respect to deep seabed mining licenses and permits. Through the Act and these rules the United States governs the exercise, by its citizens, of the high seas freedom to engage in exploration for and commercial recovery of deep seabed hard mineral resources.

On July 25, 1986, NOAA proposed regulations to govern commercial recovery activities of U.S. citizens, and to consolidate parts of the exploration regulations with the proposed commercial recovery regulations.

After review of the public comments received on the regulations, NOAA is considering modification of portions of these proposed regulations. NOAA has determined that several proposed modifications are sufficiently different from the relevant July 1986 proposals, or of sufficient public interest, to warrant an additional opportunity for public comment prior to promulgation of final regulations.

This notice therefore seeks public comments on a limited set of proposed regulations which modify the July proposals. After completion of public procedures, NOAA plans to issue a single set of final regulations based upon both the July and this notice of proposed rulemaking.

DATE: Comments must be received on or before October 29, 1987.

ADDRESSES: Inquiries and submissions should be mailed to: Ocean Minerals and Energy Division, Office of Ocean and Coastal, Resource Management, National Ocean Service, NOAA, 1825 Connecticut Avenue NW., Suite 710, Washington, DC 20235.

FOR FURTHER INFORMATION CONTACT: James P. Lawless, Chief, Ocean Minerals and Energy Division (202) 673-5121, or John W. Padan, Program Manager, Deep Seabed Mining, (202) 673-5117, at the above address.

SUPPLEMENTARY INFORMATION: During 1980 and 1981, NOAA engaged in its first rulemaking to implement the Act and issued regulations on September 15, 1981, pertaining to exploration by U.S. citizens for deep seabed hard mineral resources (15 CFR Part 970).

Because commercial recovery under the Act is authorized to begin on or after January 1, 1988, NOAA has decided to proceed with regulations governing commercial recovery of deep seabed hard mineral resources in order to allow U.S. consortia to conduct necessary planning and related activities including data collection and securing financing for commercial recovery activities. The commercial recovery regulations will affect licensees' decisions whether to commit significant new levels of resources to further technology development. In addition, other United States citizens may be considering the possibility of entering the field of deep seabed mining. In order to make these major financial decisions, these persons will need to understand the legal regime for commercial recovery under which U.S. citizens would operate.

NOAA also recognizes that deep seabed hard minerals may be important in meeting the long-range national interests of the United States. Thus it is appropriate to assure that U.S. citizens can continue with their orderly planning for the development of these resources. Further, early promulgation of these regulations provides potential permit applicants with timely notice of the information required for permit evaluation and issuance, but which must be developed during the exploration phase.

NOAA recognizes that developments such as changes in technology, the availability of new environmental data and results of monitoring, and the potential future national need for manganese, may necessitate future changes in the regulations adopted pursuant to this rulemaking. Consequently, the regulations are designed to encourage the development of technology necessary to recover deep seabed manganese nodules by providing a clear regime now, for corporate planning purposes, while allowing for changes in regulations, if needed, and deferring detailed decisions on permit-specific terms, conditions and restrictions (TCRs) until the time of permit issuance. This two stage process will facilitate planning, by enabling planners to know now the general levels of efforts that will be required, and their approximate costs, without precluding the opportunity for future research results and improvements in state of the art to be reflected in the TCRs. The regulations also recognize the need for flexibility in order to promote the development of deep seabed mining techniques and systems in a manner compatible with the requirements of the Act and regulations.

Original Notice of Proposed Rulemaking

On July 25, 1986, NOAA published in the **Federal Register** and distributed for public comment a Notice of Proposed Rulemaking (51 FR 26794). Copies of the proposed rules were mailed to a wide variety of interested groups and individuals on the NOAA deep seabed mining mailing list. Notices of public hearings held in conjunction with this rulemaking were also published in local newspapers serving the public in the regions where the hearings were located. Five public hearings were held pursuant to this rulemaking: one each on August 26 in Washington, DC and September 9 in San Francisco, two in Honolulu and one in Hilo, Hawaii, on September 11. The original 90 day public comment period was extended an additional 30 days through November 24, 1986, in response to a request from several concerned parties. Comments on the proposed regulations were received from twenty-six sources, including industry, state representatives, environmental groups, other Federal agencies and interested citizens. Copies of the comments and transcripts of the public hearings are available for review at the above address.

Summary of Comments and Responses on Issues in this Proposed Rulemaking

The comments submitted in response to the Notice of Proposed Rulemaking were useful in assisting NOAA in its consideration of the issues raised in implementing its responsibilities under the Act. Comments on several issues led NOAA to recognize that the best approach to these issues might be to propose regulations different than originally proposed. Accordingly, rather than proceeding now with final rules, NOAA is proposing new approaches, on four issues, for public comment. The following summarizes comments on these issues and outlines NOAA's proposals. After this notice and comment process, NOAA anticipates proceeding to issue final regulations for the entire set.

Subpart F—Environmental Effects

General. Several comments were received on the adequacy of the environmental parts of the proposed permit regulations. For instance a department of one coastal state noted that the broad general guidelines and principles regarding environmental protection, ". . . seems reasonable to us and we believe that NOAA's research program concerning the deep seabed environment can yield information important to identifying and mitigating any adverse effects which may be important to this state." Another coastal state noted: "We feel the two stage process of general regulations then permit specific terms, conditions and restrictions, (is) a safe route to take given the uncertainty of technologies and environmental concerns to be applied."

In contrast to the above reactions, there were a number of comments which amounted to a general concern over what was perceived to be a dearth of environmental guidelines, particularly given the infancy of the industry and technology and a relative lack of environmental knowledge of the deep sea environment. Highlights of these comments are: (1) Considering the lack of information of the deep sea environment, NOAA should undertake an expanded program of environmental assessment that focusses on information needed to develop responsible regulatory requirements; (2) the regulatory process relies on after-the-fact monitoring to develop the information needed to assess adverse impacts, and then fails to provide assurance that this information will be used to modify permits so that harmful practices are stopped or mitigated; (3) there is a presumption that there will be no significant adverse environmental effects; (4) the environmental information available from monitoring will be available only after adverse effects have already occurred; and (5) the 20-year duration of a permit is too long, given the relative lack of information on the deep sea environment.

NOAA full well realizes the relative lack of information on the deep sea environment and has continued to pursue a research program to fill the major gaps. Presently, this research is focussed on the benthic impacts due to the sedimentation of particulate material suspended by a mining collector device or discharged as a benthic plume. NOAA is also investigating the possibility of cooperation with other nations in conducting some environmental studies related to the test of mining equipment in the next several years. Given the present state of the metals market and the negative influence this has had on commercial deep seabed mining plans, some of the results of these research efforts should be available before NOAA receives a permit application.

One commenter did note that, with respect to the proposed rule, they support NOAA's monitoring requirements. However, they further note that such monitoring is intended to assist NOAA in determining the existence of or potential for "significant adverse impacts" on the environment and that without a definition of such, the value of monitoring would be diminished.

The changes being proposed clarify the environmental requirements in response to the specific concern above. NOAA believes these changes will also ease the general concerns of the other commenters regarding the need for more specific environmental guidelines.

Criteria for determination of significant adverse environmental effects. The proposed regulations have a new § 971.601—Environmental requirements, that explicitly notes the environmental requirements which the Administrator must address in issuing a permit. These proposed requirements are based on there being sufficient environmental information to make a determination that either: (1) The issuance of a permit cannot reasonably be expected to result in a "significant adverse environmental effect"; or (2) if there is insufficient information to make a determination on this question, no "irreparable harm" will come to the environment during a period when monitoring of commercial recovery is undertaken to further examine the significant adverse environmental effects issue (§ 971.601(a)).

Section 971.601(a) is patterned after the Ocean Discharge Criteria of the Clean Water Act regulations (40 CFR Part 125, Subpart M) because they have been tried and tested for ocean discharges, and upon reflection NOAA has concluded these are also relevant for deep seabed mining generally. The discussion as well as all generic data for a hydraulic mining system generating surface and seafloor discharges is found on pages 116–124 in the PEIS. If the proposed mining operation would create one or more discharges, thereby triggering the need for a National Pollutant Discharge Elimination System (NPDES) permit from EPA, NOAA would cooperate with EPA in the analysis of the environmental aspects of the site-specific proposed activities. This cooperative effort will be used to avoid duplicative processing of applications.

NOAA requests comment on the applicability of these criteria, to the extent they may apply, in examining any perturbation to the marine environment caused by the issuance of a permit regardless of whether or not a particular mining system creates a "discharge" under the Clean Water Act. The proposed rules require consideration of the following factors in determining "significant adverse environmental effect":

(1) The quantities, composition and potential for bioaccumulation or persistence of the pollutants to be discharged;

(2) The potential transport of such pollutants by biological, physical or chemical processes;

(3) The composition and vulnerability of the biological communities which may be exposed to such pollutants including the presence of unique species or communities of species, the presence of species identified as endangered or threatened pursuant to the Endangered Species Act or the presence of those species critical to the structure or function of the ecosystem such as those important for the food chain;

(4) The importance of the receiving water area to the surrounding biological community, including the presence of spawning sites, nursery/forage areas, migratory pathways, or areas necessary for other functions or critical stages in the life cycle of an organism;

(5) The existence of special aquatic sites including but not limited to marine sanctuaries and refuges, parks, national and historic monuments, national seashores, wilderness areas and coral reefs;

(6) The potential impacts on human health through direct and indirect pathways;

(7) Existing or potential recreational and commercial fishing, including finfishing and shellfishing;

(8) Any applicable requirements of an approved Coastal Zone Management plan;

(9) Such other factors relating to the effects of the discharge as may be appropriate; and

(10) Marine water quality criteria developed pursuant to section 304(a)(1) of the Clean Water Act.

Subsection 971.601(b) would require the applicant to have an approved monitoring plan (§ 971.603) and § 971.202(b)(1) would require the applicant to have the capabilities to implement it.

As part of this structure in the regulations, § 971.101—Definitions, new

terms "significant adverse environmental effect" and "irreparable harm" have been defined, again using the pattern of the Ocean Discharge Criteria.

The above changes respond to the concerns of commenters by assuring that "irreparable harm" to the environment will not occur even if there is insufficient information to decide whether permitted activities will result in "significant adverse environmental effects". Monitoring is used to further examine this issue. Furthermore, § 971.406 has been modified to note that if a permit is granted under this scenario, it would be subject to modification or suspension if significant adverse environmental effects are revealed by such monitoring. Thus, although a permit under such a scenario would still be issued for 20 years, the effective period could be less in the event of the appearance of significant adverse environmental effects.

NOAA believes that adequate protection would be provided to the environment with the above noted changes and with the definitions of "significant adverse environmental effect" and "irreparable harm" (§ 971.101).

Best available technologies (BAT) and mitigation. Although, as stated in the July 1986 proposed rule § 971.603(b) [now § 971.604(a)], NOAA is unable to define a specific technology(ies) as being the best available technologies (BAT), several commenters urged NOAA to reconsider its position. For those mining systems requiring an NPDES permit, it was pointed out that EPA will have to require the use of Best Conventional Pollutant Control Technology, assuming the mining discharge(s) are considered conventional rather than toxic pollutants. Therefore, the applicant must address the matter in terms of the Clean Water Act. One commenter suggested that applicants might explain their use of BAT in the context of how other alternatives were considered and rejected. Although NOAA continues to believe it is inappropriate to specify particular technologies as BAT, NOAA acknowledges the concerns of some of the commenters, and that section 109(b) of the Act contains certain requirements relating to BAT. Therefore, NOAA is clarifying this provision in the regulations by adopting the approach utilized in implementation of the OCS Lands Act. Until NOAA is in a position to define performance standards or specify particular equipment or procedures comprising BAT, an interim process would be adopted. An applicant would have to submit the information necessary to demonstrate that the requirements of section 109(b) of the Act would be met. The information would have to include the alternatives considered, their costs, and the rationale supporting the selection process.

Closely related to the use of BAT is the concept of mitigation, a particular approach to the avoidance of a potential problem. Three commenters recommended that mitigation measures be required. Another suggested the need for a plan that would describe how activities would be modified in the face of a perceived adverse impact. NOAA believes it is premature to require mitigation. However, public discussion, as briefly referenced in the preamble to the July 1986 proposed rules, revealed an awareness that sub-surface discharge of mining wastes could be a mitigation measure to consider in the future. Thus, NOAA agrees with the desirability of an applicant having to think about a potential need to deal with a problem triggered by surface discharge. Accordingly, a requirement for a mitigation plan has been proposed in § 971.604(b).

Stable reference areas. Comments received on the stable reference area (SRA) concept were mainly concerned with urging NOAA to designate some Impact Reference Areas (IRAs) and Preservational Reference Areas (PRAs) no later than the issuance of permits. One comment suggested that this be accomplished by NOAA stating in the regulations that the issuance of a permit is contingent upon the simultaneous designation of IRAs and PRAs. Another comment urged NOAA to make a mandatory designation of interim PRAs and to designate areas within the mine sites for impact reference. A requirement has been proposed in new § 971.603—At-sea monitoring, which would require the monitoring of benthic impact through the study of two types of areas, each selected by the permittee in consultation with NOAA: (1) An IRA which will be located in a portion of a permit area scheduled to be mined early; and (2) an interim PRA located in a portion of a permit area determined by the permittee to be non-mineable. Under appropriate circumstances, NOAA would be willing to consider designating a joint IRA and/or interim PRA for more than one operation. Although the SRA provisions in the Act propose areas outside those licensed or permitted, NOAA believes that the above approach, which falls within NOAA's authority, is compatible with the purpose of the SRA concept.

It was also recommended by one of the above commenters that instead of just reserving a subsection of the commercial regulations for SRAs, NOAA should establish the framework for defining criteria for identifying both IRAs and PRAs. Setting the framework in the final rules, it was thought, would encourage the international consultations with other nations which are required by the Act. NOAA, however, feels that it is more appropriate to continue to reserve the subsection and delay establishing criteria until the completion of the NOAA-sponsored research which was recommended in the 1984 National Research Council's report on deep seabed SRAs.

Subpart B—Applications

Antitrust information. The preamble to the proposed rules repeated the provisions in section 103(d) of the Act on antitrust review by the Attorney General of the United States and the Federal Trade Commission (FTC), and requested comments on whether such information should be specified in NOAA regulations as part of a commercial recovery permit application, or whether NOAA should play a role of advising a potential applicant informally as to what information the applicant should be prepared to provide to the Department of Justice (DOJ) and FTC for their review, should these agencies request information under their own authorities. NOAA also set forth the antitrust information needs which generally had been identified by the DOJ and FTC. The DOJ has commented that, upon consideration, they think it would be inappropriate to require every applicant to furnish all the information suggested in the proposed rule preamble. Instead, they now propose that NOAA require every applicant to submit certain basic information to enable an initial antitrust review, and that the regulations provide that the DOJ and FTC could request additional information where necessary. DOJ also proposed references to the potential need for new antitrust information in §§ 971.412 and 971.413, relating to changes or revisions in permits.

NOAA once again seeks comments on the appropriate mechanism for handling antitrust information, viewing the above two alternative approaches as the primary options. NOAA also requests comments on the new information description, set forth below, which DOJ has proposed. Proposed language for § 971.207:

(a) *General.* Section 103(d) of the Act specifically provides for antitrust review

of applications by the Attorney General of the United States and the Federal Trade Commission.

(b) *Contents.* In order to provide information for this antitrust review, the application must contain the following:

(1) For each entity that is an owner or member of the applicant, the identity of each of its owners or members, and for each such owner or member, the identity of each of its parents, subsidiaries, or affiliates.

(2) For each entity that is an owner or member of the applicant and each person identified in (1) above, and for each mineral deposit or mine containing or producing cobalt, copper, manganese, or nickel in which such person has a direct or indirect ownership interest of 20 percent or more, identify the mineral deposit or mine and each mineral contained therein or produced therefrom, and state the person's percentage ownership interest therein.

(3) For each person for which a response to (2) above is requested, and separately for each of the preceding two years and for each of the minerals, cobalt, copper, manganese, and nickel, state the aggregate annual tonnage of that ore produced or mined at the mineral deposits and mines identified in response to (2) above, and an estimate of the average concentration of the mineral in that ore.

(c) *Requests for additional information.* Within thirty days after the Administrator has transmitted to the Attorney General of the United States and the Federal Trade Commission a complete copy of an application for issuance or transfer of a permit for commercial recovery, the Attorney General or the Federal Trade Commission may, if they deem it appropriate, seek additional information from the applicant. The applicant shall have thirty days from the date it received the request to supply the additional information requested. If any of the requested information is unavailable to the applicant or if the applicant otherwise cannot provide all the requested information within the thirty-day time period, the applicant shall provide that information that is available, and shall notify the requesting agency promptly as to what information is unavailable, what information is available but cannot be supplied within thirty days, the reason that such information cannot be provided within thirty days and the time within which it can and will be supplied.

Proposed new language to add to § 971.412(c): (4) The ownership or membership of a permittee by the addition of a new owner or member, or an increase in ownership or membership of a permittee by an existing owner or member, that results in the new or existing member owning an additional 10 percent share of the permittee since the issuance of the original permit or the last reported revision to the permit; or

(5) Any ownership change other than one reported pursuant to clause (4) above which change is sufficiently broad in scope to raise a question as to:

(i) The permittee's ability to meet the requirements of the sections cited in the above clauses (1) and (2), or

(ii) The sufficiency of the TCRs to accomplish their intended purposes.

Proposed new language to add to § 971.413(c): This application should: (A) Identify and describe all changes in the ownership or membership of the permittee since the initial application (or since the last revision reported pursuant to this subsection); (B) provide the information requested in § 971.207(b) (2) and (3) for all persons who have become owners or members of the permittee since the initial application (or since the last revision reported pursuant to this subsection), and (C) update the last reported information requested in § 971.207(b) (2) and (3) for all other current owners or members if that information last was reported more than 5 years earlier.

Classification Under Executive Order 12291

NOAA has made a determination that this particular proposed notice does not constitute a "major" rule as defined by the criteria contained in E.O. 12291, however the proposed rules of July 1986, of which this is a follow-up, are determined to be major. Notice of this proposed rulemaking has been submitted to the Office of Management and Budget (OMB) for review as required by E.O. 12291.

Regulatory Impact Analysis

NOAA has prepared a supplement to the regulatory impact analysis prepared for the July 1986 proposed rules which deals solely with this proposed rule. The analysis, which is available to all interested parties, examines the various alternatives NOAA considered as it addressed the new issues, including alternatives advocated by interest groups; considers benefit and cost implications of the alternatives; and explains NOAA's reasons for making the choices reflected in these proposed regulations.

Regulatory Flexibility Act

On July 25, 1986, NOAA issued proposed Regulations for the Commercial Recovery of Deep Seabed Hard Minerals. In response to public comment, NOAA has determined that further consideration is required on the particular issues contained in this rule. The results of this solicitation will be incorporated into the final major regulation.

This notice of proposed rulemaking clarifies the preamble to the July 1986 proposed regulations regarding the Regulatory Flexibility Act (5 U.S.C. 50 et seq.). NOAA has prepared a draft regulatory impact analysis which contains an evaluation of regulatory flexibility. Based upon that evaluation, the General Counsel of the Department of Commerce certified that the July proposal would not have a significant economic impact on a substantial number of small entities. The regulations do not impose any reporting, recordkeeping, or other compliance requirements on small governmental jurisdictions or small organizations.

These proposed regulations fall within the scope of the earlier evaluation and certification.

Paperwork Reduction Act

The information collection requirements of the major regulation on commercial recovery, which will contain the results of these proposed provisions, has been approved by the Office of Management and Budget, OMB No. 0648–0170. Any changes to the approved information collection that result after the public comment period will be minor and will be submitted to OMB as an amendment to the major regulation information collection requirements.

Environmental Assessment

Pursuant to section 109(c) of the Act and the National Environmental Policy Act of 1969, NOAA has prepared a final programmatic environmental impact statement (PEIS) assessing the environmental impacts of commercial recovery in the area of the oceans in which such activities by any United States citizen will likely first occur under the authority of the Act. The PEIS was filed with the Environmental Protection Agency in September 1981. Copies may be obtained by writing NOAA, Chief, Ocean Minerals and Energy Division, at the address specified in the **ADDRESSES** section of this rulemaking. NOAA has also prepared an environmental assessment (EA) which updates the PEIS and which confirms a finding of no significant impact on the quality of the human environment from the promulgation of the July 1986 proposed regulations. NOAA has determined that, because this proposed rulemaking deals mainly with improvements in environmental

protection measures, this finding is still valid. The EA is available at the above location for review upon request.

List of Subjects in 15 CFR Part 971

Administrative practice and procedures, Environmental protection, Marine resources, Marine safety, Reporting requirements, Seabed mining.

Accordingly, new Part 971 which was proposed to be added July 25, 1986 (51 FR 26794), would be amended as follows.

Dated: September 3, 1987.

Anthony J. Calio,

Administrator.

PART 971—[AMENDED]

1. The authority citation for Part 971 would continue to read as follows:

Authority: 30 U.S.C. 1401 et seq.

2. Section 971.101 would be amended by removing the paragraph designations and adding the following definitions in alphabetical order:

§ 971.101 Definitions.

* * * * *

"Environment" or "environmental" as used in the definitions of "irreparable harm" and "significant adverse environmental effect" means or pertains to the deep seabed and ocean waters lying at and within the permit area, and in surrounding areas including transportation corridors to the extent that they might be affected, and the living and non-living resources of those areas.

* * * * *

"Irreparable harm" means significant undesirable effects to the environment occurring after the date of the permit issuance which will not be reversed after cessation or modification of the discharge.

* * * * *

"Significant adverse environmental effect" means: (1) Significant adverse changes in ecosystem diversity, productivity, and stability of the biological communities within the environment; (2) threat to human health through direct exposure to pollutants or through consumption of exposed aquatic organisms; or (3) loss of aesthetic, recreational, scientific or economic values which is unreasonable in relation to the benefit derived from the discharge.

* * * * *

3. Section 971.406 would be revised to read as follows:

§ 971.406 Environmental effects.

Before issuing or transferring a commercial recovery permit, the Administrator must find that the commercial recovery proposed in the application cannot reasonably be expected to result in a significant adverse environmental effect taking into account the analyses and information in any applicable EIS and any TCRs associated with the permit. This finding also will be based upon the requirements in Subpart F. However, as also noted in Subpart F, if a determination on this question cannot be made on the basis of available information, and it is found that irreparable harm will not occur during a period when an approved monitoring program is undertaken to further examine the significant adverse environmental effect issue, a permit may be granted, subject to modification or suspension (see § 971.417) if a significant adverse environmental effect is revealed by such monitoring.

§§ 971.601–971.605 [Redesignated as §§ 971.602–971.606].

4. Sections 971.601 through 971.605 would be redesignated as §§ 971.602 through 971.606; newly redesignated §§ 971.602 through 971.604 would be revised; and a new § 971.601 would be added to read as follows:

§ 971.601 Environmental requirements.

In issuing a permit for the commercial recovery of deep seabed hard mineral resources, the Administrator must find that:

(a) The issuance of a permit cannot reasonably be expected to result in a significant adverse environmental effect, or, if there is insufficient information to make that determination, that no irreparable harm will result during a period when monitoring of commercial recovery is undertaken to gather sufficient information. In examining this issue, NOAA will give consideration to the following Ocean Discharge Criteria of the Clean Water Act (40 CFR Part 125, Subpart M), as they may pertain to discharges and other environmental perturbations related to the commercial recovery operations:

(1) The quantities, composition and potential for bioaccumulation or persistence of the pollutants to be discharged;

(2) The potential transport of such pollutants by biological, physical or chemical processes;

(3) The composition and vulnerability of the biological communities which may be exposed to such pollutants including the presence of unique species or communities of species, the presence of species identified as endangered or threatened pursuant to the Endangered Species Act or the presence of those species critical to the structure or function of the ecosystem such as those important for the food chain;

(4) The importance of the receiving water area to the surrounding biological community, including the presence of spawning sites, nursery/forage areas, migratory pathways, or areas necessary for other functions or critical stages in the life cycle of an organism;

(5) The existence of special aquatic sites including but not limited to marine sanctuaries and refuges, parks, national and historic monuments, national seashores, wilderness areas and coral reefs;

(6) The potential impacts on human health through direct and indirect pathways;

(7) Existing or potential recreational and commercial fishing, including finfishing and shellfishing;

(8) Any applicable requirements of an approved Coastal Zone Management plan;

(9) Such other factors relating to the effects of the discharge as may be appropriate;

(10) Marine water quality criteria developed pursuant to section 304(a)(1) of the Clean Water Act; and

(b) The applicant has an approved monitoring plan (§ 971.603) and the resources and other capabilities to implement it.

§ 971.602 Significant adverse environmental effects.

(a) *Determination of significant adverse environmental effects.* The Administrator will determine the potential for or the occurrence of any significant adverse environmental effect (for the purposes of sections 103(a)(2)(D), 105(a)(4), 106(c) and 109(b) (second sentence) of the Act), on a case by case basis.

(b) *Basis for determination.* Determinations will be based upon the best information available, including relevant environmental impact statements, NOAA-collected data and monitoring, and other data provided by the applicant or permittee.

(c) *Related considerations.* In making a determination, the Administrator may take into account any TCRs or other mitigation measures.

(d) *Activities with no significant adverse environmental effect.* NOAA believes that exploration-type activities as listed in the license regulations (15 CFR 970.701), require no further environmental assessment.

(e) *Activities with potential for significant adverse environmental effects.* NOAA research has identified at-sea testing of recovery equipment, the

recovery of manganese nodules in commercial quantities from the deep seabed and the construction and operation of commercial-scale processing facilities as activities which may have some potential for significant adverse environmental effects.

(f) *Related terms, conditions and restrictions.* Permits will be issued with TCRs containing environmental requirements with respect to protection (pursuant to § 971.419), mitigation (pursuant to § 971.419), or best available technology requirements (pursuant to § 971.423), as appropriate, and monitoring requirements (pursuant to § 971.424) to acquire more information on the environmental effects of deep seabed mining.

§ 971.603 At-sea monitoring.

(a) An applicant must submit with its application a monitoring plan designed to enable the Administrator to assess environmental impacts and to develop and evaluate possible methods of mitigating adverse environmental effects, to validate assessments made in the EIS, and to ensure compliance with TCRs.

(b) The monitoring plan shall include determination of (1) the spatial and temporal characteristics of the mining ship discharges; (2) the spatial extent and severity of the benthic impact, including recovery rate and pattern of benthic recolonization; and (3) any secondary effects that result from the impact of the mining collector and benthic plume.

(c) The monitoring of benthic impact shall involve the study of two types of areas, each selected by the permittee in consultation with NOAA:

(1) An impact reference area, located in a portion of a permit area scheduled to be mined early in a permit term; and

(2) An interim preservational reference area, located in a portion of a permit area expected to be non-mineable.

(d) The following specific environmental parameters must be proposed for examination in the applicant's monitoring plan:

(1) Discharges—

Salinity, temperature, density
Suspended particulates concentration and density
Particulate and dissolved nutrients and metals
Size, configuration, and velocities of discharge

(2) Upper water column—

Nutrients
Endangered species (observations)
Salinity, temperature, density
Currents and direct current shear
Vertical distribution of light
Suspended particulate material advection and diffusion
In-situ settling velocities of suspended particulates
Zooplankton and trace metals uptake
Fish larvae
Behavior of biota, including commercially valuable fish.

(3) Lower water column and seafloor—

Currents
Suspended particulate material advection and diffusion
In-situ settling velocities of suspended particulates
Benthic scraping and blanketing, and their impacts and recovery.

(e) The monitoring plan shall include provision for monitoring those areas impacted by the permittee's mining activities, even if such areas fall outside its minesite.

(f) After the Administrator's approval of the monitoring plan, this plan will become a permit TCR. The monitoring plan TCR will authorize refinement of the monitoring plan prior to testing and commercial-scale recovery, and at other appropriate times, if refinement is necessary to reflect accurately proposed operations or to incorporate recent research or monitoring results.

(g) If test mining is proposed, the applicant shall include in the monitoring plan a provision for monitoring the test(s) as well as a strategy for using the result to monitor more effectively commercial-scale recovery. This monitoring shall address concerns expressed in the PEIS and in the permit EIS.

(h) The monitoring plan shall include a sampling strategy that is based on sound statistical methods, provide that equipment and methods be scientifically accepted, provide that the personnel who are planning, collecting and analyzing the data be scientifically well qualified, and provide that the resultant data be submitted to the Administrator in accordance with formats of the National Oceanographic Data Center and other formats as may be specified by the Administrator.

(i) Pursuant to section 114(1) of the Act the Administrator intends to place observers onboard mining vessels not only to ensure that permit TCRs are followed but also to evaluate the effectiveness of monitoring strategies, both in terms of protecting the environment and in being cost-effective (see § 971.1005) and, if necessary, to develop potential mitigation measures. If modification of permit TCRs or regulations is required to protect the quality of the environment, the Administrator may modify TCRs pursuant to § 971.414, or the regulations pursuant to § 971.804.

§ 971.604 Best available technologies (BAT) and mitigation.

(a) The Administrator shall require in all activities under new permits, and wherever practicable in activities under existing permits, the use of the best available technologies for the protection of safety, health, and the environment wherever such activities would have a significant adverse effect on safety, health, or the environment, except where the Administrator determines that the incremental benefits are clearly insufficient to justify the incremental costs of using such technologies. Because of the embryonic nature of the industry, NOAA is unable either to specify particular equipment or procedures comprising BAT or to define performance standards. Until such experience exists, the applicant shall submit such information as is necessary to indicate, as required, the use of BAT, the alternatives considered to the specific equipment or procedures, and the rationale as to why one alternative technology was considered in place of another. This analysis shall include a discussion of the costs involved with use of such technology and the incremental benefits gained.

(b) NOAA is not specifying particular mitigation methodologies or techniques at this time (such as requiring the sub-surface release of mining vessel discharges), but expects applicants and permittees to develop and carry out their operations to the extent possible to minimize adverse environmental effects and to be able to demonstrate efforts to that end. The applicant must submit a plan describing how he would mitigate a significant adverse environmental effect, if it were caused by the surface release of mining vessel discharges, including a plan for the monitoring of any discharges. Based upon monitoring results, NOAA may find it necessary in the future to specify particular

procedures for minimizing adverse environmental effects. These procedures would be incorporated into permit TCRs.

(c) In permit TCRs NOAA will require the permittee to report, prior to implementation, any proposed technological or operational changes that will increase or have unknown environmental effects. Changes in composition, concentration or size distribution of suspended particulates discharged from the mining vessel, water depth of vessel discharge, depth of cut in the seafloor of the mining collector, and direction or amount of sediment discharged at the seafloor are factors of concern to NOAA. If proposed changes have a high potential for increasing adverse environmental effects the Administrator may disapprove or require modification of the changes.

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federal register

Monday
September 14, 1987

Part IV

Department of Health and Human Services

Office of Human Development Services

Alaskan Native Social and Economic Development Projects; Availability of Financial Assistance; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

[Program Announcement No. 13612-882]

Alaskan Native Social and Economic Development Projects; Availability of Financial Assistance

AGENCY: Administration for Native Americans (ANA), Office of Human Development Services (OHDS), Department of Health and Human Services.

ACTION: Announcement of availability of competitive financial assistance for Alaskan Native social and economic development projects.

DATES: The closing dates for receipt of applications are December 11, 1987 and May 6, 1988.

FOR FURTHER INFORMATION CONTACT: Ted George (206) 442-0992 or Robert Kreidler (206) 442-8113, Administration for Native Americans, Office of Human Development Services, Department of Health and Human Services, 2901 3rd Avenue, Mail Stop 411, Seattle, WA 98121.

A. Introduction and Program Purpose

The purpose of this program announcement is to announce the availability of financial assistance to promote self-sufficiency for Alaskan Natives through support of local governance, as well as social and economic development projects. Funds will be awarded under section 803 of the Native American Programs Act of 1974, Pub. L. 93-644, 88 Stat. 2324, 42 U.S.C. 2991b.

Proposed projects will be reviewed on a competitive basis against the evaluation criteria in this announcement.

The purpose of the financial assistance provided by the Administration for Native Americans (ANA) under the Native American Programs Act (the Act) is to promote social and economic self-sufficiency for American Indians, Alaskan Natives, and Native Hawaiians.

ANA believes that responsibility for achieving self-sufficiency rests with the governing bodies of Indian tribes and Alaskan Native villages and in the leadership of Native American groups. The development of self-sufficiency requires strengthening governmental responsibilities, economic progress, and improvement of social systems which protect and enhance the health and well-being of individuals, families and communities.

Achievement of self-sufficiency is based on the community's ability to plan, organize, and direct resources in a comprehensive manner to achieve long-range community goals. ANA bases its program and policy initiatives on the following three program goals:

(1) Governance: To assist tribal and village governments, Native American institutions, and local leadership to exercise local control and decision-making over their resources.

(2) Economic Development: To foster the development of stable, diversified local economies and economic activities which will provide jobs, promote economic well-being, and reduce dependency on public funds and social services.

(3) Social Development: To support local access to, control of, and coordination of services and programs which safeguard the health and well-being of people, and which are essential to a thriving and self-sufficient community.

To accomplish these goals, ANA supports tribal and village governments and other Native American organizations in the development and implementation of community-based, long-term governance and social and economic development strategies (SEDS) aimed at promoting the self-sufficiency of their own communities. This approach is based on two fundamental principles:

(1) The local community and its leadership are responsible for determining their own goals, setting priorities, and planning and implementing programs aimed at achieving those goals; the unique mix of socio-economic, political, and cultural factors involved in each community makes such self-determination necessary; the local community is in the best position to apply its own cultural, political, and socio-economic values in deciding on long-term strategies and programs.

(2) Economic and social development are interrelated, and development in one area should be balanced with development in the other in order to enhance self-sufficiency. Without a careful balance of the two, the community's development efforts may be jeopardized. Expansion of social services, without providing opportunities for employment and economic development, may lead to greater dependency. Conversely, inadequate social services can seriously impede productivity and economic development.

B. Proposed Projects To Be Funded

The fundamental task which Native American communities face is developing enduring social and economic strategies in keeping with local goals, resources, and cultural values. ANA is interested in assisting local communities in the implementation of projects that are a part of long-range strategies to achieve social and economic self-sufficiency. ANA expects its applicants to have undertaken a long-range planning process that addresses the community's development and encourages social and economic growth for the community. Such long-range planning must consider the maximum use of available resources, directing those resources at opportunities and addressing issues that hinder progress.

ANA encourages applicants to consider innovative approaches to achieve the specific governance and social and economic goals of the community, and to use non-ANA resources including human, natural, and financial ones to strengthen and broaden the proposed project's impact in the community.

All projects funded by ANA must be complete, self-sustaining or supported with other than ANA funds at the end of the project period. ANA's funding of specific projects is not for those programs which operate indefinitely or have need for ANA funding on a recurring basis.

Goal 1: Governance. Effective governance is a necessary foundation and condition for social and economic development of Indian tribes, Alaskan Native villages and Native American groups. Efforts to achieve effective governance include: (1) Strengthening the effectiveness of tribal and village governments; (2) increasing the ability of tribes, villages and Native American groups and organizations to plan, develop, and administer a comprehensive program supportive of community social and economic self-sufficiency; and (3) increasing awareness of the legal rights and benefits to which Native Americans are entitled, either by virtue of the Federal trust relationship, legislative authority, or as citizens of the United States.

Under the governance goal, ANA strongly encourages tribal and village councils and other governing bodies to strengthen and streamline their institutional management in order to develop and implement social and economic development strategies and to improve the day-to-day management of programs. By improving such capabilities, Indian Tribes, Alaskan

Native villages and Native American groups can better define and achieve the goals of their people and promote greater efficiency and effectiveness in the use of available resources.

Goal 2: Economic Development. Effective economic development is the long-term mobilization and management of economic resources to achieve a diversified economy characterized by widespread distribution of economic resources, services, and benefits; participation of community members in the productive activities and economic investments of the community; and pursuit of economic interests in ways that balance economic gain with social development.

Goal 3: Social Development. Effective social development is the mobilization and management of resources for the social benefit of community members, and involves the establishment of institutions, systems, and practices that contribute to the social environment desired by the community. This includes the development of, access to, and local control over the institutions that protect the health and welfare of individuals and families, and preserve the values, language, and culture of the community.

Building on the foundation of strong local governance, ANA expects tribal and village governments and other Native American organizations to move toward coordinated and balanced development and implementation of social and economic development strategies. These interrelated strategies should coordinate and direct all resources (Federal and non-Federal) toward locally determined priorities, and affect the community and its members in ways that promote greater economic and social self-sufficiency. In addition, these strategies should provide an independent source of revenue to the community which will assist the applicant in decreasing dependency on public funds.

Alaska Initiative

Based on the three ANA goals, in Fiscal Year 1984, ANA implemented a special Alaska social and economic development initiative. The purpose of this special effort was to provide financial assistance at the village level or for village-specific projects aimed at improving a village's social and economic development. This program announcement continues to implement this initiative. ANA sees both the non-profit and for-profit corporations in Alaska as being able to play an important supportive role in assisting individual villages to develop and implement their own locally determined strategies which take advantage of the opportunities afforded to Alaskan Natives under the Alaska Native Claims Settlement Act (ANCSA), Pub. L. 92–202.

Examples of the types of projects that ANA is seeking to fund include, but are not limited to, projects that will:

Governance

- Initiate a demonstration program at a regional level to allow Native people to become involved in developing strategies to maintain and develop their economic subsistence base.
- Assist in developing land use capabilities and develop skills in the areas of land and natural resource management including resource assessment and development, as well as potential impacts upon the environment and the subsistence ecology.
- Assist village consortia in the development of tribal constitutions, codes, and court systems.
- Develop agreements between the State and villages that transfer programs, jurisdictions, and/or control to Native entities.
- Strengthen village government control of land management, including land protection.
- Develop tribal courts, adoption codes, and/or related comprehensive children's codes.
- Assist in status clarification for traditional councils.
- Initiate village level mergers between village council and village corporations.
- Develop Regional IRAs (Indian Reorganization Act of 1934) and village consortia, in order to maximize tribal government resources, i.e., to develop model codes, or tribal court systems.

Economic Development

- Assist villages to develop businesses and industries which (1) use local materials, (2) create jobs for Alaskan Natives, (3) are capable of high productivity at a small scale of operation, and (4) complement traditional and necessary seasonal activities.
- Substantially increase and strengthen efforts to establish and improve the village and regional infrastructure and the capabilities to develop and manage resources in a highly competitive cash-economy system.
- Assist villages or consortia of villages in developing subsistence compatible industries that will retain local dollars in villages, reducing dependency on State and Federal subsidies.
- Assist in new or expanded Native businesses.
- Assist villages in labor export, i.e., people leaving the local communities for seasonal work and returning to their communities.

Social Development

- Assist villages in developing the service sector.
- Assist in developing training and education programs for those jobs in education, government, and health usually found in local communities and also to work with the various agencies to encourage job replacement of non-Natives by Natives.
- Coordinate land use planning with village corporations and city government.
- Develop local control of planning and delivery of social services.
- Develop new service programs established with ANA funds and funded for continued operation by local communities or the private sector.
- Develop or coordinate activities with State-funded projects, in decreasing the incidences of child abuse and neglect, or fetal alcohol syndrome, or Native suicides.
- Assist in obtaining licenses to provide housing or related services for State or local governments.
- Assist in increasing the number of Native adoptions, or Native children returning home from foster care.
- Assist in respite care for family caretakers.

C. Eligible Applicants

The following are eligible to apply for a grant award under this program announcement:

- Alaskan Native villages as defined in the Alaska Native Claims Settlement Act.
- Nonprofit Alaskan Native Regional Corporations in Alaska with village specific projects.
- Nonprofit Native organizations in Alaska with village specific projects.
- Current ANA grantees in Alaska funded under section 803 of the Native American Programs Act with a project period ending in Fiscal Year 1988.
- Alaskan Native Indian communities as recognized by the Bureau of Indian Affairs.

Although for-profit Regional Corporations established under ANCSA are not eligible applicants, individual villages and Indian communities are encouraged to use the for-profit corporations as subcontractors and to collaborate with them in joint-venture projects for promoting social and economic self-sufficiency. ANA encourages the for-profit corporations to assist the villages in developing

applications and to participate as subcontractors in the project.

D. Available Funds

Approximately $1.5 million of financial assistance is available under this program announcement.

Funding Guidance: ANA plans to award approximately 15–18 grants. For individual village projects, the funding level will be up to $100,000; for regional nonprofit and village consortia, the funding level is up to $150,000, commensurate with approved multi-village objectives. For multi-year projects, the funding range for Fiscal Years 1989 and 1990 will be the same.

Each applicant is eligible to receive no more than one grant award under this announcement.

E. Multi-Year Projects

Applicants may apply for projects of up to 36 months duration. A multi-year project, one extending more than 12 months, affords grantees the opportunity to undertake more complex and in-depth projects than can be completed in one year. Applicants are encouraged to develop multi-year projects. However, applicants should note that a multi-year project is a project on a single theme that requires more than 12 months to complete. It is not a series of unrelated projects presented in chronological order over a three year period. It should also be noted that funding after the first budget period of a multi-year project will be non-competitive.

The budget period for each multi-year project grant will be 12 months. The non-competitive funding for the second and third year will depend upon the grantee's progress in achieving the objectives of the project according to the approved work plan, the availability of Federal funds, ANA's continued belief that the project is in the public interest, and compliance with applicable statutory, regulatory and grant requirements.

F. Grantee Share of Project

Grantees must provide at least 20 percent of the total approved cost of the project, which may be cash or in-kind contributions. The total approved cost of the project is the sum of the Federal share and the non-Federal share. The method to compute the non-Federal share is shown in the Application Kit. An itemized budget detailing the applicant's non-Federal share and its source must be included in the application. A request for a waiver of the non-Federal share requirement may be submitted in accordance with section 1336.50(b)(3) of the Native American Program Regulations.

G. Intergovernmental Review of Federal Programs

This program is not covered by Executive Order 12372.

H. The Application Process

Availability of Application Forms

In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and in the manner prescribed by ANA. The application requirements are approved under OMB Control No. 0980–0016. The application kits containing the necessary forms may be obtained from: Administration for Native Americans, Office of Human Development Services, DHHS, 2901 3rd Avenue, Mail Stop 411, Seattle, WA 98121, Attention: No. 13612–882, (206) 442–0992, Attention: 13612–882.

Application Submission

One signed original and two copies of the grant application, including all attachments, must be hand delivered or mailed to: Department of Health and Human Services, Office of Human Development Services, Discretionary Grants Management Branch, 2901 3rd Avenue, Mail Stop 414, Seattle, WA 98121, Attention: ANA 13612–882.

DO NOT SUBMIT THE APPLICATION TO WASHINGTON, DC.

The application shall be signed by an individual authorized to act for the applicant tribe or organization and to assume the applicant's obligations under the terms and conditions of the grant award, including Native American Program statutory and regulatory requirements.

Application Consideration

The Commissioner of the Administration for Native Americans determines the final action to be taken with respect to each grant application received under this announcement.

The following points should be taken into consideration by all applicants:

- Incomplete applications and applications that do not conform to this announcement will not be accepted for review. Applicants will be notified in writing of any such determination by ANA.
- Complete applications that conform to all the requirements of this program announcement are subjected to a competitive review and evaluation process. An independent review panel evaluates each application against the published criteria. The results of this review assist the Commissioner in making final funding decisions.
- The Commissioner's decision also takes into account the comments of the ANA staff, State and Federal agencies having performance related information, and other interested parties.
- The Commissioner makes grant awards consistent with the purpose of the Act, all relevant statutory and regulatory requirements, this Program Announcement, and the availability of funds.
- After the Commissioner has made decisions on all applications, unsuccessful applicants will be notified in writing within approximately 120 days of the closing date. Successful applicants are notified through an official Financial Assistance Award (FAA).

The award will state the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the project period, the budget period, and the amount of the non-Federal matching share requirement.

I. Review Process and Criteria

Applications submitted in a timely manner under this program announcement will undergo a pre-review to determine:

- That the applicant is eligible in accordance with the Eligible Applicant Section of this announcement;
- That the application proposes project objectives which are responsive to the Program Announcement; and
- That the application materials submitted are sufficient to allow the panel to undertake an in-depth evaluation. All required materials and forms are listed in the Grant Application Checklist in the Application Kit.

Applications which pass the pre-review will be evaluated and rated by an independent review panel on the basis of the following criteria:

(1) *Long-Range Goals.* The application presents long-range goals, within the context of the community's comprehensive social and economic development goals, which the proposed project addresses. (Inclusion of the community's entire development plan is not necessary.) (15 points)

(2) *Resources Availability to the Proposed Project.* Other resources which will assist or be coordinated with the project are described. Resources may be human, natural or financial in nature, including Federal and non-Federal resources. (15 points)

(3) *Capabilities and Qualifications.* The resumes or position descriptions of key personnel indicate that the staff is qualified to carry out the project. (15 points)

(4) *Project Objectives and Activities.* The application proposes project objectives and project activities which:

- Are realistic and feasible;
- Are measurable and quantifiable;
- Are based on a fully described and locally determined balanced social and economic development strategy;
- Clearly address a major problem within the community;
- Indicate when the objective will be accomplished; and
- Indicate who will accomplish the objective; (20 points)

(5) *Results or Benefits Expected.* The proposed project will result in specific, measurable outcomes which will clearly contribute to the overall development of the community and its members. The specific information provided is the basis upon which the outcomes can be evaluated at year end. (20 points)

(6) *Budget.* The budget fully explains and justifies the line items in the budget categories in Part III, Section B of the Budget Information. Sufficient detail is included to facilitate determination of allowability, relevance to the project, and cost benefits. (15 points)

J. Guidance to Applicants

The following policies, pointers, and instructions are provided to assist applicants in developing a competitive application.

(1) Program Guidance

- Community Coordination: ANA supports the concept that the key to balanced socio-economic development is the local village. ANA encourages Native village governments to coordinate their local plans with other village entities, if any, and especially the city government and the village corporation. In addition, villages are encouraged to make maximum use of regional nonprofit resources, including village-to-regional corporation subcontracts.
- ANA reviewers of applications have indicated they are better able to judge the feasibility and practicality of a proposed economic development project when the applicant has utilized a business plan to discuss the project. ANA has included sample business plans in the application kit. It is strongly suggested that an applicant use these as a guide in the development of an application. The more information given a review panel on a proposed business, the better able it is to evaluate the potential for success.
- ANA does not fund on the basis of need. ANA funds projects presenting the strongest prospects for fulfilling a community's governance, social or economic development.
- In discussing the problems or needs of the community being addressed in the application, sufficient background and/or history of the community should be included to ensure that the feasibility of the proposed project will be understood by reviewers.
- The project proposal must clearly identify in measurable terms the expected results of the project and its positive and continuing impact on the community.
- In the Part IV, Section A of the application package, *Resources Available to the Proposed Project,* the applicant should address any specific financial circumstances which may impact on the project, such as any monetary or land settlements made to the applicant and any restrictions to those settlements and explain the specific reasons it is seeking ANA funds, particularly if the applicant apparently has other resources to support the proposed project and chooses not to use them.
- Supporting documentation or other testimonies from concerned interests other than the applicant may be used to provide support for the feasibility of the project.

(2) Technical Guidance

- The application's Form 424 must be signed by the applicant's representative authorized to act with full authority on behalf of the applicant.
- ANA suggests that the pages of the application be numbered sequentially from the first page. This allows for easy reference during the review process. Simple tabbing of the sections of the application is also helpful to the reviewers.
- Two copies of the application plus the original are required.
- Applicants are encouraged to have someone other than the author apply the evaluation criteria and score the application prior to its submission in order to gain a better sense of their application's quality and potential competitiveness.
- For purposes of developing an application, applicants should plan for a project start date approximately 120 days after the closing date under which the application is submitted.
- ANA will not fund essentially identical projects serving the same constituency.
- ANA will accept only one application from any one applicant. If an eligible applicant sends in two applications, the one with the earlier postmark will be accepted for review unless the applicant withdraws the earlier application.
- An application from a Federally recognized tribe must be from the governing body.
- The Cover Page (included in the Kit) should be the first page of an application.
- The Approach page (Section B, Part IV) for each objective proposed should be of sufficient detail to become a daily or weekly staff guide of responsibilities should the applicant be funded.
- If a profit making venture is being proposed, revenue must be reinvested in the business in order to decrease or eliminate ANA's future participation. Such revenue must be reported as general program income and used in accordance with the deduction alternative. (See 45 CFR Part 74.42(c).)
- Applicants proposing multi-year projects must fully describe annual project objectives and activities. Separate Objective Work Plans (OWP) must be presented for each project year and a separate itemized budget of the Federal and non-Federal costs of the project for each budget period must be included.
- Applicants for multi-year projects must justify the entire time-frame of the project (i.e. why the project needs multiple years to complete) and describe the results to be achieved by the end of each budget period of the project period.
- The applicant should specify the entire project period length on the cover page of the Form 424, Block 16, not the length of the first budget period. In cases where the application's contents propose one length of project period and the Form 424 cover page specifies a conflicting length of project period, ANA will consider the project period specified on the Form 424 as the governing one.
- Village governments without established accounting systems must arrange for qualified, acceptable accounting services prior to release of grant funds.

Note: Subpart H, 45 CFR Part 74 describes those elements of a generally acceptable accounting system for Federal grantees. The financial management standards in Subpart H require:

(1) Accurate, current and complete disclosure;

(2) Records which show source and application of funds;

(3) Effective control and accountability of funds and property;

(4) Comparison of actual and budgeted amounts;

(5) Procedures to minimize time lapsing between transfer and disbursement of funds;

(6) Procedures to determine allowability and allocating of funds;

(7) Accounting records with source documentation;

(8) Periodic audits; and

(9) A follow-up system.

(3) Projects or activities that generally will not meet the purposes of this announcement

The following activities are inconsistent with the policies of ANA:

- Projects which support a grantee in providing training and/or technical assistance (T/TA) to other tribes or Native American organizations ("third party T/TA") are inconsistent with the policies of ANA. However, the purchase of T/TA by a grantee for its own use or use for its members (as in the case of a consortium), where T/TA is necessary to carry out project objectives, is acceptable.
- Proposed feasibility studies, business plans, marketing plans, or written materials such as manuals that are not an integral part of the applicant's long-range development plan would generally not be considered. ANA is not interested in funding 'wish lists' of business possibilities. ANA expects evidence of solid investment of time and thought on the part of the applicant to any development of business or other plans.
- On-going social service delivery, expansion or continuation of existing social service delivery programs;
- Core administrative functions or other activities that essentially support the applicant's administrative functions;
- Project goals which are not responsive to one or more of the three ANA goals (Governance, Economic Development, Social Development);
- Projects plans or strategies clearly not determined or developed at the local level;
- Proposals from consortia of tribes that are not specific in regard to support from and roles of member tribes;
- Projects which should be supported by other Federal funding sources appropriate and available for the proposed activity;
- Activities that will not be completed, not be self-sustaining or not be supported by other than ANA funds at the end of the project period;
- Lack of demonstrated coordination with non-ANA resources;
- Lack of a justification or explanation for requesting ANA funds, or a lack of discussion of other resources and revenues for use in the project;
- The purchase of real estate (see 45 CFR 1336.50 (e)) or construction (see HDS Grants Administration Manual 3–e);
- Use of ANA grant funds for a monetary share of capital investment for a business.

ANA will critically evaluate applications within which the acquisition of major capital equipment (whether oil rigs or computers/word processing equipment), franchises or management fees are major components of the Federal share of the budget. During negotiation, such expenditures may be deleted from the budget of an otherwise approved application.

ANA will also critically evaluate projects reflecting heavy reliance on use of outside consultants, especially where consultants have prepared the application and have provided themselves a major role in the proposed project.

K. Due Date for Receipt of Applications

The closing dates for applications submitted in response to this program announcement are December 11, 1987 and May 6, 1988.

L. Receipt of Applications

Applications must either be hand delivered or mailed.

Applications mailed through the U.S. Postal Service or a commercial delivery service shall be considered as meeting the deadline if they are:

(1) Received on or before the deadline date at the address specified in the Application Submission Section, or

(2) Sent on or before the deadline date. (Applicants are cautioned to request a legibly dated receipt from a commercial carrier or U.S. Postal Service or a legible postmark date from the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications. Applications which do not meet the criteria in the above paragraph of this section are considered late applications. ANA shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines. ANA may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is a widespread disruption of the mails. However, if ANA does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant.

(Catalog of Federal Domestic Assistance Program Number 13.612 Native American Programs)

Dated: July 22, 1987.

William Lynn Engles,

Commissioner, Administration for Native Americans.

Approved: August 31, 1987.

Phillip N. Hawkes,

Acting Assistant Secretary for Human Development Services.

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[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.

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[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.

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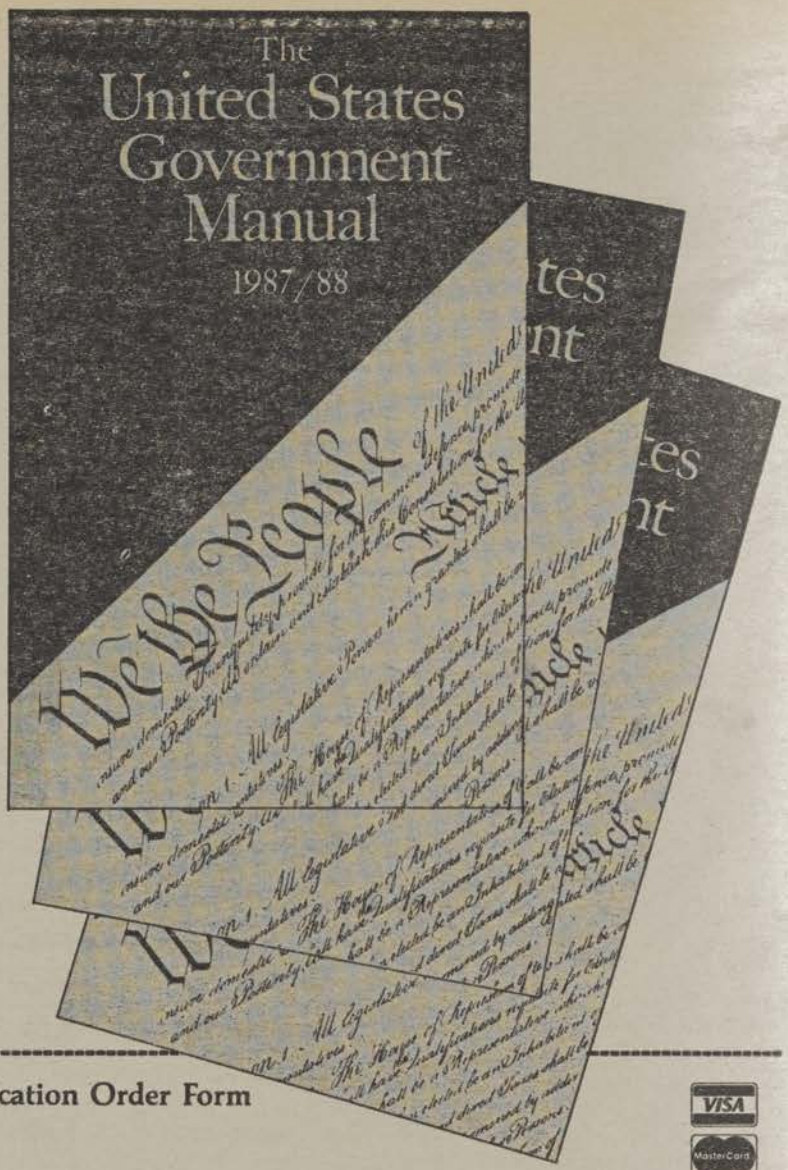
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