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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 87-124]

Mediterranean Fruit Fly; Addition to the Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mediterranean fruit fly regulations by adding an additional portion of Los Angeles County in California to the list of areas in Los Angeles County designated as quarantined areas. This action is necessary as an emergency measure in order to prevent the artificial spread of the Mediterranean fruit fly into noninfested areas of the United States. The effect of this action is to impose certain restrictions on the interstate movement of regulated articles from the quarantined area.

DATES: Interim rule effective September 14, 1987. Consideration will be given only to comments postmarked or received on or before November 16, 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 87-124. Comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Eddie Elder, Chief Operations Officer, Domestic and Emergency Operations, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 661 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6365.

SUPPLEMENTARY INFORMATION:

Background

The Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), is an extremely destructive pest of numerous fruits (especially citrus fruits), nuts, vegetables, and berries. Heavy infestations of this pest can result in complete loss of these crops. The short life cycle of the Mediterranean fruit fly permits the rapid development of serious outbreaks.

A document published in the **Federal Register** on September 2, 1987, (52 FR 33218-33224, Docket Number 87-120) established the Mediterranean fruit fly regulations (7 CFR 301.78 *et seq.*; referred to below as the regulations). The regulations impose restrictions on the interstate movement of regulated articles from quarantined areas in order to prevent the artificial spread of the Mediterranean fruit fly to noninfested areas of the United States.

The regulations, among other things, designated portions of Los Angeles County as a quarantined area. This area remains infested with Mediterranean fruit fly.

However, the Mediterranean fruit fly has now been found in other areas of Los Angeles County, as a result of trapping surveys conducted by inspectors of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, United States Department of Agriculture and state agencies of California. The regulations in § 301.78-3 provide that the Deputy Administrator for Plant Protection and Quarantine shall list as a quarantined area each state, or each portion of a state, in which the Mediterranean fruit fly has been found by an inspector. We are amending the regulations by revising the quarantined area to include all the areas in Los Angeles County in which the Mediterranean fruit fly has been found. The revised quarantined area is as follows:

Los Angeles County

That portion of the county bounded by a line beginning at the intersection of Interstate Highway 10 and Central Avenue; then southerly along Central Avenue to its intersection with Martin Luther King, Jr. Boulevard; then westerly along Martin Luther King, Jr. Boulevard to its intersection with Broadway; then southerly on Broadway to its intersection with Imperial Highway; then easterly along Imperial Highway to its intersection with State Highway 19; then northeasterly along State Highway 19 to its intersection with Washington Boulevard; than northwesterly along Washington Boulevard to its intersection with Paramount Boulevard; then northeasterly along Paramount Boulevard to its intersection with State Highway 72; then westerly along State Highway 72 to its intersection with Montebello Boulevard; then northerly along Montebello Boulevard to its intersection with Paramount Boulevard; then northerly along Paramount Boulevard to its intersection with State Highway 60; then westerly along State Highway 60 to its intersection with Mednik Avenue; then northerly along Mednik Avenue to its intersection with Floral Drive; then northeasterly along an imaginary line to the intersection of Brightwood Street and Stonewell Street; then northerly along an imaginary line to the intersection of Casuda Canyon Drive and Ladera Street; then northerly along Ladera Street to its intersection with Verde Vista Drive; then westerly along an imaginary line to the intersection of State University Drive and Eastern Avenue; then westerly along Eastern Avenue to its intersection with Marianna Avenue; then westerly along an imaginary line to the intersection of Boca Avenue and Valley Boulevard; then northwesterly along Valley Boulevard to its intersection with Mission Road; then southwesterly along Mission Road to its intersection with U.S. Highway 101; then westerly along U.S. Highway 101 to its intersection with Vignes Street; then southerly along Vignes Street to its intersection with 1st Street; then easterly along 1st Street to its intersection with Santa Fe Avenue; then southerly along Santa Fe Avenue to its intersection with Interstate Highway 10; then westerly along Interstate Highway 10 to the point of beginning.

Emergency Action

William F. Helms, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists, which warrants publication of this interim rule without prior opportunity for public comment. Due to the possibility that the Mediterranean fruit fly could be spread artifically to noninfested areas of the United States, a situation exists requiring immediate action to help control the spread of this pest. Since prior notice and other public procedures with respect to this interim

rule are impracticable and contrary to the public interest under these emergency conditions, there is good cause under 5 U.S.C. 553 to make this interim rule effective upon signature. We will consider comments on this interim rule that are postmarked or received within 60 days of publication. As soon as possible after the comment period closes, we will publish another document in the **Federal Register** discussing the comments we received and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

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

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Within the part of Los Angeles County that is being added to the quarantined area, there are fewer than 20 small entities that may be affected, 12 mobile and three stationary fruit stands. Most of the sales by these entities are local intrastate sales and will not be affected by this rule. Also, the conditions in the Mediterranean fruit fly regulations and the treatments in the Plant Protection and Quarantine Treatment Manual, incorporated by reference in the regulations, allow interstate movement of most articles without significant added costs.

Based on 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 subpart contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *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 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Mediterranean fruit fly, Incorporation by reference.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, 7 CFR Part 301 is amended as follows:

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

Authority: 7 U.S.C. 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 301.78–3(c), the designation of the quarantined areas is revised to read as follows:

§ 301.78–3 Quarantined areas.

* * * * *

(c) * * *

California

Los Angeles County

That portion of the county bounded by a line beginning at the intersection of Interstate Highway 10 and Central Avenue; then southerly along Central Avenue to its intersection with Martin Luther King, Jr. Boulevard; then westerly along Martin Luther King, Jr. Boulevard to its intersection with Broadway; then southerly on Broadway to its intersection with Imperial Highway; then easterly along Imperial Highway to its intersection with State Highway 19; then northeasterly along State Highway 19 to its intersection with Washington Boulevard; then northwesterly along Washington Boulevard to its intersection with Paramount Boulevard; then northeasterly along Paramount Boulevard to its intersection with State Highway 72; then westerly along State Highway 72 to its intersection with Montebello Boulevard; then northerly along Montebello Boulevard to its intersection with Paramount Boulevard; then northerly along Paramount Boulevard to its intersection with State Highway 60; then westerly along State Highway 60 to its intersection with Mednik Avenue; then northerly along Mednik Avenue to its intersection with Floral Drive; then northeasterly along an imaginary line to the intersection of Brightwood Street and Stonewell Street; then northerly along an imaginary line to the intersection of Casuda Canyon Drive and Ladera Street; then northerly along Ladera Street to its intersection with Verde Vista Drive; then westerly along an imaginary line to the intersection of State University Drive and Eastern Avenue; then westerly along Eastern Avenue to its intersection with Marianna Avenue; then westerly along an imaginary line to the intersection of Boca Avenue and Valley Boulevard; then northwesterly along Valley Boulevard to its intersection with Mission Road; then southwesterly along Mission Road to its intersection with U.S. Highway 101; then westerly along U.S. Highway 101 to its intersection with Vignes Street; then southerly along Vignes Street to its intersection with 1st Street; then easterly along 1st Street to its intersection with Santa Fe Avenue; then southerly along Santa Fe Avenue to its intersection with Interstate Highway 10; then westerly along Interstate Highway 10 to the point of beginning.

Done at Washington, DC, this 14th day of September, 1987.

D. Husnik,

Acting Deputy Administrator, Plant Protection and Quarantine Animal and Plant Health Inspection Service.

[FR Doc. 87–21468 Filed 9–16–87; 8:45 am]

BILLING CODE 3410-34-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 706

Federal Credit Union; Prohibited Lending Practices

AGENCY: National Credit Union Administration.

ACTION: Interim final rule.

SUMMARY: The Competitive Equality Banking Act of 1987 (CEBA) amended the Federal Trade Commission Act to provide that the authority to declare practices of Federal credit unions (FCU's) unfair or deceptive trade practices was transferred from the Federal Trade Commission (FTC) to the NCUA. The CEBA further amended the FTC Act to require the NCUA to promulgate rules that are substantially similar to rules issued by the FTC defining unfair or deceptive trade practices. The FTC adopted such a rule entitled the Credit Practices Rule which FCU's were subject to until the enactment of the CEBA. The Credit Practices Rule prohibits the use by creditors of four contract provisions and the pyramiding of late charges, and requires a notice to be given to potential cosigners of credit obligations. This interim final rule was adopted by the NUCA Board to meet NCUA's statutory mandate to adopt substantially similar rules as those issued by the FTC defining unfair or deceptive trade practices.

EFFECTIVE DATE: September 17, 1987. Comments must be received on or before November 17, 1987.

ADDRESS: Send comments to Becky Baker, Secretary, NCUA Board, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: James J. Engel, Deputy General Counsel, or Julie Tamuleviz, Staff Attorney, NCUA, Office of General Counsel, at the above address, or telephone: (202) 357–1030.

SUPPLEMENTARY INFORMATION:

Background

Prior to the enactment of the Competitive Equality Banking Act of 1987 (CEBA), Pub. L. 100–86, on August 10, 1987, the Federal Trade Commission (FTC) had the authority to prevent FCU's from engaging in unfair or deceptive trade practices. (15 U.S.C. 45 (a)(2).) The FTC also had the authority to prescribe rules defining unfair or deceptive trade practices. (15 U.S.C. 57a(a)(1)(B).) The CEBA amended the FTC Act by transferring to the NCUA the authority to declare practices of FCU's unfair or deceptive trade practices, to investigate such practices, and to issue rules regulating such practices by FCU's. This amendment provided FCU's with the same exemptions from the FTC's trade practices authority with respect to unfair or deceptive trade practices as those currently allowed banks and savings and loans regulated by the Federal Reserve Board and the Federal Home Loan Bank Board.

As amended by CEBA, the FTC Act provides that, within 60 days after the effective date of an FTC Rule defining unfair or deceptive trade practices, NCUA must promulgate rules applicable to FCU's prohibiting acts or practices of FCU's which are substantially similar to those prohibited by the FTC unless the Board finds that such acts and practices of FCU's are not unfair or deceptive. The FTC issued such a Rule, the Credit Practices Rule, which became effective on March 1, 1985. 16 CFR Part 444. FCU's were subject to this rule until the enactment of CEBA.

The Credit Practices Rule prohibits the following types of loan contract clauses:

1. *Confessions of Judgment of Cognovits*—a waiver of a debtor's right to notice and the opportunity to be heard in the event of a suit or other process on the credit obligation, and for the entry of a judgment against the debtor resulting therefrom.

2. *Waivers of Exemption*—a waiver or limitation of exemption from attachment, execution, or other process of the debtor's real or personal property, unless the waiver applies solely to property subject to a security interest executed in connection with the obligation.

3. *Wage assignments*—at the creditor's option, a transfer of a debtor's wages to the creditor upon default without notice or hearing.

4. *Security Interest in Household Goods*—gives a creditor a nonpossessory lien on personal property. The rule prohibits the taking of a security interest, other than a purchase money security interest, in a debtor's household goods.

The rule also prohibits a lender from engaging in any practice which would result in the pyramiding of late charges, that is, charging multiple late charges for one late payment. The rule also requires lenders to disclose in writing to potential cosigners that they will have to repay the loan if the debtor does not.

As discussed above, the NCUA is now statutorily required to issue a rule that is substantially similar to the FTC's Credit Practices Rule. The Prohibited Lending Practices Rule is being issued by the NCUA Board to meet this requirement. The NCUA Board determined that it was necessary to adopt the Prohibited Lending Practices Rule as an interim final rule, rather than as a proposed rule, to ensure that FCU's are currently subject to a rule substantially similar to the FTC's Credit Practices Rule. As the Prohibited Lending Practices Rule does not impose any new requirements on FCU's, this will not impose any hardship on FCU's. The Board will review the interim final rule to determine if any amendments should be made, and requests comments on the rule in this regard. Following this additional review of the rule, the Board will adopt a final rule.

NCUA's Prohibited Lending Practices Rule is virtually identical in substance to the FTC's Credit Practices Rule and the corresponding rules issued by the Federal Reserve for banks (12 CFR Part 227) and the Federal Home Loan Bank Board for savings and loan associations (12 CFR Part 535). However, NCUA's rule has been modified so that it applies only to FCU's. Readers desiring further information should refer to the preamble of the FTC's rule. (49 FR 7740, March 1, 1984.)

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board has determined and certifies that this rule will not have a significant economic impact on a substantial number of small credit unions (primarily those under $1 million in assets) as the rule does not impose any additional requirements on any FCU, but merely maintains rules that FCU's have been subject to since March 1, 1985. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

The rule contains one information collection request. Section 706.3(b) of the rule requires that FCU's provide cosigners with a specified disclosure prior to the time the cosigner assumes liability on an obligation. This information collection request will be submitted to the Office of Management and Budget for review under the Paperwork Reduction Act prior to the time the rule is published in the **Federal Register**. The requirement has been in effect for FCU's under the FTC rule. Written comments and recommendations regarding the information collection request should be forwarded directly to the OMB Desk Officer indicated below at the following address: OMB Reports Management Branch, a New Executive Office Building, Room 3208, Washington, DC 20503, ATTN: Robert Fishman.

List of Subjects in 12 CFR Part 706

Credit unions, Prohibited lending practices, Unfair or deceptive acts.

By the National Credit Union Administration Board, this 9th day of September, 1987.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA adds a new Part 706 to its regulations as follows:

PART 706—PROHIBITED LENDING PRACTICES

Sec.

Authority: 15 U.S.C. 57a(f).

§ 706.1 Definitions.

(a) *Person.* An individual, corporation, or other business organization.

(b) *Consumer.* A natural person member who seeks or acquires goods, services, or money for personal, family, or household use.

(c) *Obligation.* An agreement between a consumer and a Federal credit union.

(d) *Debt.* Money that is due or alleged to be due from one to another.

(e) *Earnings.* Compensation paid or payable to an individual or for his or her account for personal services rendered

or to be rendered by him or her, whether denominated as wages, salary, commission, bonus, or otherwise, including periodic payments pursuant to a pension, retirement, or disability program.

(f) *Household goods.* Clothing, furniture, appliances, one radio and one television, linens, china, crockery, kitchenware, and personal effects (including wedding rings) of the consumer and his or her dependents, provided that the following are not included within the scope of the term "household goods":

(1) Works of art;

(2) Electronic entertainment equipment (except one television and one radio;

(3) Items acquired as antiques; and

(4) Jewelry (except wedding rings).

(g) *Antique.* Any item over one hundred years of age, including such items that have been repaired or renovated without changing their original form or character.

(h) *Cosigner.* A natural person who renders himself or herself liable for the obligation of another person without receiving goods, services or money in return for the credit obligation, or in the case of an open-end credit obligation, without receiving the contractual right to obtain extensions of credit under the obligation. The term includes any person whose signature is requested as a condition to granting credit to a consumer, or as a condition for forbearance on collection of a consumer's obligation that is in default. The term does not include a spouse whose signature is required on a credit obligation to perfect a security interest pursuant to state law. A person is a cosigner within the meaning of this definition whether or not he or she is designated as such on a credit obligation.

§ 706.2 Unfair credit practices.

(a) In connection with the extension of credit to consumers, it is an unfair act or practice for a Federal credit union, directly or indirectly to take or receive from a consumer an obligation that:

(1) Constitutes or contains a cognovit or confession of judgment (for purposes other than executory process in the State of Louisiana), warrant of attorney, or other waiver of the right to notice and the opportunity to be heard in the event of suit or process thereon.

(2) Constitutes or contains an executory waiver or a limitation of exemption from attachment, execution, or other process on real or personal property held, owned by, or due to the consumer, unless the waiver applies solely to property subject to a security interest executed in connection with the obligation.

(3) Constitutes or contains an assignment of wages or other earnings unless:

(i) The assignment by its terms is revocable at the will of the debtor, or

(ii) The assignment is a payroll deduction plan or preauthorized payment plan, commencing at the time of the transaction, in which the consumer authorizes a series of wage deductions as a method of making each payment, or

(iii) The assignment applies only to wages or other earnings already earned at the time of the assignment.

(4) Constitutes or contains a nonpossessory security interest in household goods other than a purchase money security interest.

§ 706.3 Unfair or deceptive cosigner practices.

(a) *Prohibited practices.* In connection with the extension of credit to consumers, it is:

(1) A deceptive act or practice for a Federal credit union, directly or indirectly, to misrepresent the nature or extent of cosigner liability to any person.

(2) An unfair act or practice for a Federal credit union, directly or indirectly, to obligate a cosigner unless the cosinger is informed prior to becoming obligated, which in the case of open end credit means prior to the time that the agreement creating the cosigner's liability for future charges is executed, of the nature of his or her liability as cosigner.

(b) *Disclosure requirement.* To comply with the cosigner information requirement of paragraph (a)(2) of this section, a clear and conspicuous document that contains only the following statement, or one which is substantially equivalent, must be given to the cosigner prior to becoming obligated:

Notice of Cosigner

You are being asked to guarantee this debt. Think carefully before you do. If the borrower doesn't pay the debt, you will have to. Be sure you can afford to pay if you have to, and that you want to accept this responsibility.

You may have to pay up to the full amount of the debt if the borrower does not pay. You may also have to pay late fees or collection costs, which increase this amount.

The creditor can collect this debt from you without first trying to collect from the borrower. The creditor can use the same collection methods against you that can be used against the borrower, such as suing you, garnishing your wages, etc. If this debt is ever in default, that fact may become a part of your credit record.

This notice is not the contract that makes you liable for the debt.

§ 706.4 Late charges.

(a) In connection with collecting a debt arising out of an extension of credit to a consumer, it is an unfair act or practice for a Federal credit union, directly or indirectly, to levy or collect any delinquency charge on a payment, which payment is otherwise a full payment for the applicable period and is paid on its due date or within an applicable grace period, when the only delinquency is attributable to late fee(s) or delinquency charge(s) assessed on earlier installment(s).

(b) For purposes of this section, "collecting a debt" means any activity other than the use of judicial process that is intended to bring about or does bring about repayment of all or part of a consumer debt.

§ 706.5 State exemptions.

(a) If, upon application to the NCUA by an appropriate state agency, the NCUA determines that:

(1) There is a state requirement or prohibition in effect that applies to any transaction to which a provision of this rule applies; and

(2) The state requirement or prohibition affords a level of protection to consumers that is substantially equivalent to, or greater than, the protection afforded by this rule; then that provision of this rule will not be in effect in the state to the extent specified by the NCUA in its determination, for as long as the state administers and enforces the state requirement or prohibition effectively.

[FR Doc. 87-21523 Filed 9-16-87; 8:45 am]
BILLING CODE 7535-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

[T.D. 87-117]

Change in the Customs Service Field Organization; Port Huron, MI

AGENCY: U.S Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to change the Customs field organization by extending the geographic limits of the port of entry of Port Huron, Michigan. Currently, Customs officers assigned to the port provide service at many locations which are outside the existing port limits. This expansion will better serve the public by

including several locations routinely requiring Customs service within the official port limits.

EFFECTIVE DATE: October 19, 1987.

FOR FURTHER INFORMATION CONTACT: Richard Coleman, Office of Inspection and Control, (202–566–9425).

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public, by notice published in the **Federal Register** on April 23, 1987 (52 FR 13473), Customs proposed to amend § 101.3, Customs Regulations (19 CFR 101.3), by extending the geographic limits of the port of entry of Port Huron, Michigan, located in the Detroit, Michigan, Customs District in the North Central Region.

The proposed expanded port limits set forth in that document, and as more accurately described in a subsequent notice published on May 12, 1987 (52 FR 17770), are as follows:

All of the territory encompassing the cities of Port Huron, Marysville, St. Clair, Marine City and Algonac and the Townships of Port Huron, Fort Gratiot, Kimball, St. Clair, East China and the portion of Cottrellville and Clay Townships east of and including Highway M-29, all in the State of Michigan.

No comments were received in response to the notice proposing the expansion. After further review of the matter, Customs has determined that it is in the public interest to adopt the expansion as proposed. The expansion of the geographic limits of Port Huron will permit normal rotation of inspectors to St. Clair, Marine City, and Algonac as they are now assigned to other areas within the existing port limits. Importers within the expanded port limits will no longer be billed mileage charges, which have been minimal. The expansion will result in no additional workload and will require no additional personnel.

Algonac and Marine City are currently listed in § 101.4(c), Customs Regulations (19 CFR 101.4(c)), as Customs stations. As those two locations are now encompassed by the expanded limits of Port Huron, they are being removed from the list in § 101.4(c).

Authority

This change is made under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by E.O. No. 10289, September 17, 1951 (3 CFR Parts 1949 through 1953 Comp. Ch. II) and pursuant to authority provided by Treasury Department Order No. 101–5, dated February 17, 1987 (52 FR 6282).

Executive Order 12291 and Regulatory Flexibility Act

Because this document relates to agency organization it is not subject to E.O. 12291. Accordingly, a regulatory impact analysis and the review prescribed by that E.O. are not required. Similarly, this document is not subject to the regulatory analysis and other requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Customs routinely establishes and expands Customs ports of entry and Customs stations throughout the U.S. to accommodate the volume of Customs-related activity in various parts of the country. Although this amendment may have a limited effect upon some small entities in the area affected, it is not expected to be significant because establishing and expanding port limits or stations in other areas has not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Act. Nor is it expected to impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Drafting Information

The principal author of this document was John Doyle, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Imports, Organization and functions (Government agencies).

Amendments to the Regulations

PART 101—GENERAL PROVISIONS

1. The authority citation for Part 101, Customs Regulations (19 CFR Part 101), continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1, 66, 1202 (Gen. Hdnote. 11), 1624, Reorganization Plan 1 of 1965; 3 CFR 1965 Supp.

§ 101.3 [Amended]

2. To reflect this change, the list of Customs regions, districts, and ports of entry in § 101.3(b) is amended by removing "53576" from the listing for Port Huron in the column headed "Ports of entry", in the Detroit, Michigan, Customs District of the North Central Region, and inserting in its place, "87–117".

§ 101.4 [Amended]

3. The list of Customs districts, stations, and ports of entry having supervision, in § 101.4(c) is amended as follows:

By removing "Algonac, Mich." and "Marine City, Mich." from the column headed "Customs stations" and by removing from the same two lines, "Port Huron," from the column headed "Port of entry having supervision" in the Detroit, Michigan, Customs district.

William von Raab,

Commissioner of Customs.

Approved: August 31, 1987.

Francis A. Keating II,

Assistant Secretary of the Treasury.

[FR Doc. 87–21496 Filed 9–16–87; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 10

[Docket No. 87N–0094]

Administrative Practices and Procedures; Update

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulation concerning participation in outside standard-setting activities by updating the list of names of the associations of State and local governments with whom FDA maintains close daily cooperation.

DATES: Effective September 17, 1987; written comments by October 19, 1987.

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

FOR FURTHER INFORMATION CONTACT: Heinz G. Wilms, Division of Federal-State Relations (HFC–150), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3360.

SUPPLEMENTARY INFORMATION: FDA is amending its regulation (21 CFR 10.95) governing participation in outside standard-setting activities by updating the names of the listed associations of State and local governments.

In this update, the Association of State and Territorial Health Officials

replaces its listed affiliate—Conference of State Sanitary Engineers. The Interstate Shellfish Sanitation Conference replaces the listed Interstate Seafood Seminar and the National Shellfish Sanitation Program. The following organizations also are being added to the list: American Association of Food Hygiene Veterinarians, Conference of Food Protection, Conference of State Health and Environmental Managers, National Association of Boards of Pharmacy, National Association of Departments of Agriculture, National Conference of Local Environmental Health Administrators, and the National Society of Professional Sanitarians.

Because this final rule is essentially editorial in nature and noncontroversial, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest (5 U.S.C. 553 (b)(B) and (d)). This final rule, therefore, is effective September 17, 1987. However, interested persons may, on or before October 19, 1987, submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

FDA has analyzed the economic impact of this rule in accordance with Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96–354). The agency has determined that the rule is not a major rule as defined in Executive Order 12291 and certifies that the rule will not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act.

The agency has determined under 21 CFR 24.24(a)(9) 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 10

Administrative practice and procedure.

Therefore, under the Federal Food, Drug and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 10 is amended as follows:

PART 10—ADMINISTRATIVE PRACTICES AND PROCEDURES

1. The authority citation for 21 CFR Part 10 continues to read as follows:

Authority: Sec. 201 et seq., Pub. L. 717, 52 Stat. 1040 as amended (21 U.S.C. 321 et seq.); sec. 1 et seq., Pub. L. 410, 58 Stat. 682 as amended (42 U.S.C. 201 et seq.); sec. 4, Pub. L. 91–513, 84 Stat. 1241 (42 U.S.C. 257a); sec. 301 et seq., Pub. L. 91–513, 84 Stat. 1253 (21 U.S.C. 821 et seq.); sec. 409(b), Pub. L. 242, 81 Stat. 600 (21 U.S.C. 679(b)); sec. 24(b), Pub. L. 85–172, 82 Stat. 807 (21 U.S.C. 467f(b)); sec. 2 et seq., Pub. L. 91–597, 84 Stat. 1620 (21 U.S.C. 1031 et seq.); secs. 1 through 9, Pub. L. 625, 44 Stat. 1101–1103 as amended (21 U.S.C. 141–149); secs. 1 through 10, Chapter 358, 29 Stat. 604–607 as amended (21 U.S.C. 41–50); sec. 2 et seq., Pub. L. 783, 44 Stat. 1406 as amended (15 U.S.C. 401 et seq.); sec. 1 et seq., Pub. L. 89–755, 80 Stat. 1296 as amended (15 U.S.C. 1451 et seq.).

2. In § 10.95 by revising paragraph (d)(8) to read as follows:

§ 10.95 Participation in outside standard-setting activities.

* * * * *

(d) * * *

(8) Because of the close daily cooperation between FDA and the associations of State and local government officials listed below in this paragraph, and the large number of agency employees who are members of or work with these associations, participation in the activities of these associations is exempt from paragraph (d) (1) through (7) of this section, except that a list of the committees and other groups of these associations will be included in the public file on standard-setting activities established by the Freedom of Information Staff (HFI–35):

(i) American Association of Food Hygiene Veterinarians (AAFHV).

(ii) American Public Health Association (APHA).

(iii) Association of American Feed Control Officials, Inc. (AAFCO).

(iv) Association of Food and Drug Officials (AFDO).

(v) Association of Official Analytical Chemists (AOAC).

(vi) Association of State and Territorial Health Officials (ASTHO).

(vii) Conference for Food Protection (CFP).

(viii) Conference of State Health and Environmental Managers (COSHEM).

(ix) Conference of Radiation Control Program Directors (CRCPD).

(x) International Association of Milk, Food, and Environmental Sanitation, Inc. (IAMFES).

(xi) Interstate Shellfish Sanitation Conference (ISSC).

(xii) National Association of Boards of Pharmacy (NABP).

(xiii) National Association of Departments of Agriculture (NADA).

(xiv) National Conference on Interstate Milk Shipments (NCIMS).

(xv) National Conference of Local Environmental Health Administrators (NCLEHA).

(xvi) National Conference on Weights and Measures (NCWW).

(xvii) National Environmental Health Association (NEHA).

(xviii) National Society of Professional Sanitarians (NSPS).

Dated: September 10, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87–21424 Filed 9–16–87; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 658

[FHWA Docket No. 83–14]

Truck Size and Weight; Lane Widths

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This notice sets forth the deletion or modification of certain routes of the National Network for commercial motor vehicles. The intended effect is to increase the safety of the National Network that was established by the final rule on truck size and weight published at 49 FR 23302 on June 5, 1984, and codified under 23 CFR Part 658, Appendix A.

EFFECTIVE DATE: September 17, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Blow, Office of Motor Carrier Information Management and Analysis, (202) 366–4023, Mr. Richard A. Torbik, Office of Planning, (202) 366–0233, Mr. David C. Oliver, Office of the Chief Counsel, (202) 366–1354, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION:

Background

The National Network of highways in 50 States, the District of Columbia, and Puerto Rico on which commercial vehicles with the dimensions authorized by the Surface Transportation Assistance Act (STAA) of 1982, Pub. L. 97–424, 96 Stat. 2097 may operate was

established by the final rule published in the **Federal Register** at 49 FR 23302, June 5, 1984 (23 CFR Part 658, App. A).

Some of the published routes have lane widths less than 12 feet, the designation of which has been challenged as exceeding the authority of the STAA.

The Tandem Truck Safety Act of 1984 (TTSA) (Pub.L. 98–554, 98 Stat. 2829) clarified the FHWA's authority to designate Federal-aid Primary System highways with less than 12-foot wide lanes, if FHWA determines that such designation is consistent with highway safety. The FHWA published at 50 FR 12825 on April 1, 1985, an advance notice of proposed rulemaking (ANPRM) requesting comments on sections of routes with such lane widths which had been designated under the Secretary's authority. A summary of the responses to the ANPRM docket (FHWA Docket No. 83–14) and a State-by-State review of the comments received was published in the notice of proposed rulemaking (NPRM) at 51 FR 8511 on March 12, 1986. In the NPRM, the FHWA proposed to amend the June 5, 1984, final rule for the States of Kentucky, New Jersey, North Carolina, South Carolina, and Virginia by deleting or modifying certain routes in these States. The docket responses to the NPRM are reported below.

Docket Response to NPRM (Published at 51 FR 8511 on March 12, 1986)

The FHWA received ten responses to FHWA Docket No. 83–14: four from the trucking industry, two from State transportation agencies, one from a port authority, one from a State Senator, one from a State Representative, and one from the Center for Auto Safety. Of this group, the trucking industry recommended that the proposed deletions not be made on sections of the following routes: US 74 in North Carolina and US 52 in South Carolina. The North Carolina Department of Transportation recommended that the proposed deletions not be made on sections of US 19 and US 74. The State did not object to the proposed deletion on a section of US 421. The South Carolina Department of Highways and Public Transportation and a State Senator and a State Representative both from South Carolina recommended that the proposed deletions on a section of US 52 not be made. The Port Authority of New York and New Jersey recommended that the proposed deletion on a section of NJ 440 not be made. The Center for Auto Safety (CAS) recommended the deletion of four additional sections on four routes in South Carolina. Three of the four route sections were identified in the ANPRM but were not proposed for modification in the NPRM. The three route sections identified in the ANPRM were on US 52 in Florence, US 123 near Westminister, and US 321 south of Columbia. These three route sections were further reviewed by the FHWA and the results are included under South Carolina in the following State-by-State review of comments to the NPRM docket. The fourth route section, on US 76 in Columbia, South Carolina, was not identified in either the ANPRM or the NPRM and will be included in a future NPRM.

Results of State–by–State Review of NPRM Docket Comments

Kentucky

For Kentucky, the NPRM proposed deleting a section of US 79 between the Tennessee State Line and US 68, Russellville, because of restricted clearances at a railroad underpass. Also, a modification to KY 61 was proposed in the NPRM by deleting a section between the Tennessee State Line and Peytonburg because this section of two-lane highway has 8-foot lanes and severe curvature. Finally, a modification to US 127 was proposed in the NPRM by deleting the section between the Tennessee State Line and the US 127 Bypass south of Danville because the section has 10-foot lanes and severe grades. No comments on the above three proposals were received, therefore, these route sections are being deleted.

New Jersey

For New Jersey, the NPRM proposed deletion of a short section of NJ 440 between I–95 in Edison and the New York State Line at the Outerbridge Crossing because the New York section of the Outerbridge Crossing did not connect to highways in New York on the National Network. One comment was received from the Port Authority of New York and New Jersey that owns and has jurisdiction over the Outerbridge Crossing in both States. The Port Authority recommended that the section be retained because the Holland and Lincoln Tunnels cannot accommodate STAA vehicles due to lateral clearance restrictions and the New York metropolitan area requires access from a southern route through Perth Amboy, New Jersey, in addition to the other routes via the George Washington Bridge and the Goethals Bridge. The Port Authority has been working with New York City officials to provide access for STAA vehicles on NY 440. In order not to preclude the additional access, this section is being retained.

North Carolina

For North Carolina, the NPRM proposed deleting a 21.86-mile section of US 19 in Cherokee, Macon, and Swain Counties. The North Carolina Department of Transportation recommended that this section be retained because the overall truck accident experience is not significantly greater than that experienced statewide and no tandem trailer truck accidents have occurred in this section. Also, there are no other alternate routes of reasonable length between Ashville, North Carolina, and Chattanooga, Tennessee. For these reasons, this section is being retained.

Also for North Carolina, the NPRM proposed deleting a short section of US 74, 1.9 miles in length, in Charlotte, because the addition of turning lanes at intersections has narrowed the existing three through lanes in each direction to an average of 9 feet each. The State's comment recommended that this section be retained because no tandem trailer truck accidents have occurred in this section and there are no reasonable alternate routes. Two additional comments were received from the trucking industry and both recommended retention of this route section because there are no reasonable alternate routes and longer routing would increase the exposure of traffic to accidents. The overall truck accident experience is greater than that experienced statewide; however, the State and the city of Charlotte have agreed to restrict STAA vehicles to the center lane in each direction and the necessary signing has already been installed. Therefore, this section is being retained subject to restrictions by the State on STAA vehicles passing through the section.

Finally, for North Carolina, the NPRM proposed deleting a short section of US 421 in New Hanover County between Kure Beach and Carolina Beach, because this section traverses a heavily built up beach resort area. One comment was received from the State which indicated that it did not object to the proposed deletion. Therefore, this section is being deleted.

South Carolina

For South Carolina, the NPRM proposed deleting a 57.17-mile section of US 52 between Lake City and Moncks Corner (via Kingstree) primarily because the lane widths for turning at the intersection of US 52 and SC 261/527 in Kingstree are less than 12 feet wide. Comments received from the State Department of Highways and Public

Transportation, the trucking industry, a State Senator, and a State Representative, recommended that the section be retained because the proposed deletion would cause negative impacts on the community of Kingstree and the industry. Further field review indicated that the 13-mile section from Lake City south to near the Kingstree north urban limit is 4-lane divided with 12-foot lanes and serves several plants and factories. Therefore, this section is being retained as a spur. However, the four 10-foot lanes in Kingstree are not adequate to accommodate STAA vehicles through the intersection of US 52 and SC 261/527 in Kingstree. Also, the section from Kingstree south to Moncks Corner includes curves and limited sight distance and shoulder widths. Therefore, the 45-mile section of US 52 from the end of the 4-lane section north of the city limits of Kingstree, passing south through Kingstree, to Moncks Corner is being deleted. The deleted section is not critical to network continuity as trucks traveling from Charleston can use I–26/I–95 to reach points northwest and US 17 to reach points northeast. The 19-mile section of US 52 from Moncks Corner to US 52/I–26 Connector at Goose Creek is 4-lane divided with 12-foot lanes and serves industry along its length. Therefore, this section is being retained as a spur.

As discussed earlier, the Center for Auto Safety (CAS) recommended in its comments to the NPRM docket the deletion of various sections on three routes (US 52, US 123 and US 321) that were not included in the NPRM. The three routes had been listed in the preceding ANPRM for review and had been retained on the National Network. The CAS rcommendations were based primarily on substandard lane widths and geometrics. In view of the comments by the CAS to the NPRM docket the sections recommended for deletion on the three routes were further reviewed with the following results.

The CAS recommended deleting a 2.48-mile section of US 52 in Florence, South Carolina. The review indicates the section has 12-foot wide lanes throughout except for a two-block segment that has four 10-foot wide lanes with two 8-foot parking lanes. The speed limit is 25 m.p.h. and the route passes in front of the City Hall which precludes removal of parking. Trucks operate on this straight, level urban section at or below the speed limit. The overall accident experience in this section is greater than that experienced statewide; however, there are no suitable alternate routes and deletion of this section would eliminate network continuity to Lake City on the south and Myrtle Beach on the southeast. Retention of this short section is necessary to commerce and network continuity. Therefore, the section is being retained.

The CAS recommended deleting an 8.16-mile section of US 123 between US 76, west of Westminster, South Carolina, to the urban limit of Seneca, South Carolina. The review indicates all of the lanes in the section are at least 12 feet wide except for a 1.0-mile section in Westminster that has four 10-foot lanes curb-to-curb. The accident rate in the 1.0-mile section is higher than the statewide average. Therefore, the 1.0-mile section in Westminster is being deleted. The remaining 7.16 miles is being retained as a spur route to serve adjacent industrial areas. In addition, a 10.98-mile rural section from the west end of the 1.0-mile section in Westminster to the Georgia State line is being deleted because US 123 is not on the National Network in Georgia and the 10.98-mile section would be isolated from the system.

Finally, the CAS recommended deleting a 43.87-mile section of US 321 between Columbia, South Carolina, and US 78, Denmark, South Carolina. The review indicates all of the land widths throughout the section are at least 12 feet wide except for three short sections that vary in length from 0.4-mile to 0.9-mile. Two of the short sections are in the rural communities of Gaston and Neeses and both sections involve low traffic volumes and have four 11-foot wide lanes. The overall accident experience in Gaston is less than that experienced statewide and in Neeses it is greater than that experienced statewide. The third short section is in the rural community of Swansea and has four 10-foot wide lanes. This section is essentially straight and level with one gradual curve near the southern end. Trucks were observed operating safely through this low-volume section, at or below the 35 m.p.h. speed limit, with no encroachments on adjacent lanes. The overall accident experience in Swansea is greater than that experienced statewide. In view of the operational characteristics of the three short, low-volume sections and their importance to network continuity and service, the overall 43.87-mile section is being retained.

Virginia

For Virginia, the NPRM proposed deleting the section of VA 57 between VA 753 and VA 666. No comments were received on the proposed deletion; therefore, this section is being deleted.

Regulatory Impact

The FHWA has considered the impacts of this action and has determined that it is not a major rulemaking action within the meaning of E.O. 12291. Pursuant to E.O. 12498, this rulemaking action has been included in the Regulatory Program for significant rulemaking actions. These determinations by the agency are based on the nature of the rulemaking. The FHWA has determined that this rulemaking proposes to technically amend the June 5, 1984, final rule by deleting certain highway segments in accordance with statutory provisions. The impacts of the deletions addressed in this rulemaking do not significantly alter the impacts fully considered in the original impact statement accompanying the June 5 rule. These segment deletions represent a very small portion of the National Network with a negligible impact on the prior system. Thus, no revised regulatory evaluation is needed. For the same reasons, the FHWA finds good cause to make the amendments to 23 CFR Part 658 final without a 30-day delay in effective date under the Administrative Procedure Act and under the criteria of the Regulatory Flexibility Act, FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

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

List of Subjects in 23 CFR Part 658

Grants programs—transportation, Highways and roads, Motor carrier—size and weight.

Issued on: September 11, 1987.

R.A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

In consideration of the foregoing, the FHWA hereby amends Chapter I of Title 23, Code of Federal Regulations, by correcting Appendix A to Part 658 for the States of Kentucky, North Carolina, South Carolina, and Virginia, to read as set forth below.

PART 658—[AMENDED]

1. The authority citation for 23 CFR Part 658 continues to read as follows:

Authority: Sections 133, 411, 412, 413, and 416 of Pub. L. 97–424, 96 Stat. 2097 (23 U.S.C. 127; 49 U.S.C. 2311, 2313, and app. 2316), as amended by Pub. L. 98–17, 97 Stat. 59, and

Pub. L. 98–554, 98 Stat. 2829; 23 U.S.C. 315; and 49 CFR 1.48.

Appendix A—[Amended]

2. Appendix A to Part 658 is amended for the State of Kentucky by removing the Posted Route Number entries:

Route	From	To
US 79	Tennessee State Line.	US 68 Russellville.
*	*	*
KY 61	Tennessee State Line.	KY 90 at Burkesville.
*	*	*
US 127	Tennessee State Line.	US 60 in Frankfort (via Danville and Lawrenceburg Bypasses).

and inserting in place of KY–61 and US–127 the following:

Route	From	To
KY 61	Peytonsburg	KY 90 at Burkesville.
*	*	*
US 127	US 127 Bypass North of Danville.	US 60 in Frankfort (via Lawrenceburg Bypass).

3. Appendix A to Part 658 is amended for the State of North Carolina by removing Posted Route Number entry:

Route	From	To
US 421	Kure Beach	I–95 Dunn

and inserting in its place the following:

US 421	Carolina Beach	I–95 Dunn.
*	*	*

and adding the following note at the end of the route listing:

Note 1.—Commercial Vehicles with the dimensions authorized by the Surface Transportation Assistance Act of 1982 (STAA) and subsequent Acts are subject to State restrictions on US 74 in Charlotte. For specific information, contact the North Carolina Department of Transportation, One South Wilmington Street, Raleigh, North Carolina 27611, Telephone: (919)733–2520.

4. Appendix A to Part 658 is amended for the State of South Carolina by removing Posted Route Number entries:

Route	From	To
US 123	Georgia State Line	US 25 Greenville.
*	*	*
US 52	US 15, Society Hill	US 52/I–26 Connector at Goose Creek.

and inserting in their respective places the following:

US 123	Bibb Street, Westminster.	US 25 Greenville.
*	*	*
US 52	US 15, Society Hill	End of 4 lane section North of urban limits of Kingstree.
US 52	Moncks Corner	US 52/I–26 Connector at Goose Creek.

5. Appendix A to Part 658 is amended for the State of Virginia by removing Posted Route Number entry:

Route	From	To
VA 57	Route 220 (Bassett Forks.	Route 686 (Bassett)

and inserting in its place the following:

VA 57	Route 220 (Bassett Forks).	Route 753 (Eastern edge of Bassett in Henry Co.).

[FR Doc. 87–21499 Filed 9–16–87; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 232 and 235

[Docket No. R–87–1354; FR–2414]

Mortgage Insurance; Changes in Interest Rates

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

ACTION: Final rule.

SUMMARY: This change in the regulations increases the maximum allowable interest rate on certain section 232 (Mortgage Insurance for Nursing Homes) loans and on all section 235 (Homeownership for Lower Income Families) insured loans. This final rule is intended to bring the maximum permissible financing charges for these programs into line with competitive market rates.

EFFECTIVE DATE: September 8, 1987.

FOR FURTHER INFORMATION CONTACT: John N. Dickie, Chief Mortgage and Capital Market Analysis Branch, Office of Financial Management, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Telephone (202) 755–7270. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The following amendments to 24 CFR Ch. II have been made to increase the maximum interest rate which may be charged on loans insured by this Department under section 232 (fire safety equipment) and section 235 of the National Housing Act. The maximum interest rate on the HUD/FHA section 232 (fire safety equipment) and section 235 insurance programs has been raised from 10.00 percent to 10.50 percent.

The Secretary has determined that this change is immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change.

As a matter of policy, the Department submits most of its rulemaking to public comment, either before or after effectiveness of the action. In this instance, however, the Secretary has determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this final rule effective immediately.

HUD regulations published at 47 FR 56266 (1982), amending 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, contain categorical exclusions from their requirements for the actions, activities and programs specified in § 50.20. Since the amendments made by this rule fall within the categorical exclusions set forth in paragraph (*l*) of § 50.20, the preparation of an Environmental Impact Statement or Finding of No Significant Impact is not required for this rule.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local governmental agencies, or geographic regions; or (3) have 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.

In accordance with the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule provides for a small increase in the mortgage interest rate in programs of limited applicability, and thus of minimal effect on small entities.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on April 27, 1986 (52 FR 14362) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program numbers are 14.108, 14.117, and 14.120.

List of Subjects

24 CFR Part 232

Fire prevention, Health facilities, Loan programs: Health, Loan programs: Housing and community development, Mortgage insurance, Nursing homes, Intermediate care facilities.

24 CFR Part 235

Condominiums, Cooperatives, Low and moderate income housing, Mortgage insurance, Homeownership, Grant programs: Housing and community development.

Accordingly, the Department amends 24 CFR Parts 232 and 235 as follows:

PART 232—MORTGAGE INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES

1. The authority citation for 24 CFR Part 232 continues to read as follows:

Authority: Sections 211, 232, National Housing Act, (12 U.S.C. 1715b, 1715w); Section 7(d), Department of Housing and Urban Development, (42 U.S.C. 3535(d)).

2. In § 232.560, paragraph (a) is revised to read as follows:

§ 232.560 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 10.50 percent per annum with respect to mortgages insured on or after September 8, 1987.

* * * * *

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

3. The authority citation for 24 CFR Part 235 continues to read as follows:

Authority: Sections 211, 235, National Housing Act (12 U.S.C. 1715b, 1715z); Section 7(d), Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)).

4. In § 235.9, paragraph (a) is revised to read as follows:

§ 235.9 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 10.50 percent per annum with respect to mortgages insured on or after September 8, 1987.

* * * * *

5. In § 235.540, paragraph (a) is revised to read as follows:

§ 235.540 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed on by the mortgagee and the mortgagor, which rate shall not exceed 10.50 percent per annum with respect to mortgages insured after September 8, 1987.

* * * * *

Date: September 4, 1987.

James E. Schoenberger,

General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 87-21528 Filed 9-16-87; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Virginia State Plan; Approval of Plan Supplement; Termination of Limited Concurrent Federal Enforcement

AGENCY: Department of Labor, Occupational Safety and Health Administration (OSHA).

ACTION: Final rule; Approval of supplement to the Virginia State Plan; notice of termination of concurrent Federal enforcement.

SUMMARY: on December 12, 1986, the Occupational Safety and Health Administration gave notice that concurrent Federal enforcement authority would be exercised in Virginia, pending enactment by the Virginia legislature of certain amendments to the State occupational safety and health law. These amendments, which relate to the issuance and judicial review of administrative search warrants, became effective on July 1, 1987. The present **Federal Register** document provides notice that the new legislation has been reviewed and approved by OSHA as part of the State plan, and that the limited exercise of concurrent Federal enforcement authority announced on December 12, 1986 has been terminated.

EFFECTIVE DATE: September 17, 1987.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3647, 200 Constitution Avenue NW., Washington, DC 20210. Telephone (202) 523-8148.

SUPPLEMENTARY INFORMATION: Section 18 of the Occupational Safety and Health Act (the "Act" 29 U.S.C. 667) provides that States which wish to assume responsibility for enforcing occupational Safety and health standards under State law may do so by submitting, and obtaining Federal approval of, a State plan for such enforcement. The Act requires, as a condition of plan approval, that a State provide "adequate legal authority" for enforcement of safety and health standards. Among other things, adequate legal authority must include "a right to entry and inspection of all workplaces . . .which is at least as effective as that provided in section 8 (of the Federal Act), and includes a prohibition of advance notice of inspections." 29 U.S.C. 667(c)(3)(4).

On September 28, 1976, notice of initial Federal approval of the Virginia State plan was published in the **Federal Register** (41 FR 42655). In States which have received initial plan approval the Act provides that OSHA "may, but shall not be required to" exercise Federal enforcement authority concurrently with the State. 29 U.S.C. 667(e). OSHA regulations at 29 CFR 1954.3 provide guidelines and procedures for the exercise of this discretionary concurrent enforcement authority. Under these regulations, Federal enforcement authority will not be exercised as to safety and health issues covered by a State plan and approved enabling legislation, providing the basis for effective enforcement of standards, sufficient enforcement staff, adopted standards, and functioning review authority, and has entered into an "operational status agreement" with the State. On June 11, 1982, notice was published of OSHA's determination that the Virginia State plan met the conditions for operational status. That notice set forth a description of a State and Federal responsibilities as described in an operational status agreement between OSHA and the Virginia Department of Labor and Industry (47 FR 25325).

Right of Entry Under the Virginia State Plan

OSHA's December 12, 1986 notice of its intent to resume limited concurrent enforcement, and recent efforts by Virginia to amend its occupational safety and health law, resulted from Virginia court decisions which affected the State's ability to enforce general schedule inspection warrants. The specific issue presented by these decisions was whether, after the issuance by a judge or magistrate of a warrant authorizing a general schedule safety or health inspection of a particular workplace, the employer may, in a suit to invalidate the warrant, obtain court-ordered discovery of agency information, documents, and testimony which were not part of the application submitted to the magistrate

who issued the warrant. In cases involving challenges to Federal OSHA inspection warrants the Federal courts have held such discovery improper under the "four corners" rule established by the U.S. Supreme Court in *Franks* v. *Delaware*, 438 U.S. 154 (1978).

U.S. Courts of Appeals for four Federal circuits have recognized the applicability of the four corners rule to cases involving OSHA general schedule inspection warrants. *Brock* v. *Trinity Industries, Inc.*, 824 F.2d 634 (8th Cir. 1987); *Donovan* v. *Mosher Steel Co.*, 791 F.2d 1535 (11th Cir. 1986); *Donovan* v. *Hackney, Inc.*, 769 F.2d 650 (10th Cir. 1985); *Brock* v. *Gretna Machine and Ironworks, Inc.*, 769 F.2d 1110 (5th Cir. 1895).

The four corners rule provides that when the issuance of a search warrant by a lower court or magistrate is challenged, the reviewing court is restricted to considering the information actually presented to the issuing judge. Except in the rate instance where the challenging party can show material, deliberate falsehood or reckless disregard for the truth by the warrant applicant, the reviewing court may consider only the matter contained within the "four corners" of the warrant application. Proper application of the four corners doctrine is especially important in cases involving inspections under the Federal OSH Act or equivalent State laws. As various Federal courts have noted, there is "no reason to impose cumbersome discovery procedures on the enforcement of an OSHA inspection warrant" which by law must be "executed without delay and without prior notice." *Donovan* v. *Mosher Steel, Inc., supra*, 791 F.2d at 1535. Moreover, the release to employers of etablishment lists or other employer-identifying data would in most instances violate the Act's prohibition of advance notice of OSHA inspections. 29 U.S.C. 666(f). Title 40.1 of the Labor Laws of Virginia contains a similar prohibition.

In *Mosher Steel-Virginia* v. *Teig*, 327 S.E. 2d 87 (Va., 1985) the Virginia Supreme Court, in a declaratory judgment suit by an employer seeking to invalidate a general schedule inspection warrant issued by a Virginia magistrate, held that the four corners rule would not be applied in cases involving *Barlow's* type OSHA inspection warrants. The court held *Franks* v. *Delaware* inapplicable to challenges to Virginia warrants obtained under the "reasonable legislative or administrative standards" test for probable cause derived from *Barlow's* (327 S.E. 2d at 92–3). Although the court permitted review of information outside that actually presented to the magistrate, the court expressly declined to resolve whether discovery would be permitted to allow the employer to obtain new information. Thus, it is unclear from the Virginia Supreme Court's opinion whether Virginia employers challenging general schedule warrants would be entitled to discovery, including the release of confidential scheduling information and "establishment lists" of workplaces likely to be inspected in the future. However, in a more recent declaratory judgment suit filed by the same employer in connection with a subsequent general schedule inspection warrant, the Circuit Court for the City of Roanoke relied upon the 1985 *Teig* decision in ordering State officials responsible for enforcing the plan to submit to discovery requested by the employer, which included the submission of data underlying the Virginia inspection plan, deposition of officials responsible for developing and implementing the inspection scheduling plan, and the release to the employer of various confidential scheduling materials including establishments lists. *Mosher Steel-Virginia* v. *Amato*, Chancery No. 86–04354 (filed June 20, 1986).

As previously discussed, in order to retain full operational status as well as continued Federal plan approval, a State must provide effective enforcement of safety and health standards, including a right of entry at least as effective as that exercised by OSHA under section 8 of the Act. States must have legal authority to obtain and execute inspection warrants on terms and conditions comparable to those afforded OSHA under Fedeal law. OSHA's State plan criteria require States to seek "administrative and judicial review of adverse adjudications," and to take "administrative, legislative or judicial action to correct any deficiencies" in enforcement which are caused by adverse adjudications. 29 CFR 1902.37(b)(14).

In response to the adverse State court rulings in *Mosher Steel*, at the request of the Virginia Department of Labor and Industry, Governor Gerald Baliles submitted to the Virginia legislature during its 1987 term a bill proposing amendments to the Virginia Occupational Safety and Health Act. These amendments, consisting of procedures for the issuance, review and execution of warrants to conduct occupational safety and health inspections, were enacted with some modification by the legislature and signed by Governor Baliles, becoming effective July 1, 1987. Virginia's Commissioner of Labor and Industry, Carol Amato, on July 10 transmitted the new legislation to Linda R. Anku, OSHA Reginal Administrator, for review and approval as part of Virginia's Federally-approved State plan.

Summary and Evaluation of the Amendments

The new legislation, codified as new sections 40.1–49.9 through 40.1–49.12 of the Code of Virginia, generally provides for the issuance of administrative search warrants, based upon a petition demonstrating probable cause and supported by an affidavit, by any judge having authority to issue criminal warrants whose territorial jurisdiction includes the workplace to be inspected. The amendments permit issuance of a warrant to conduct a general schedule inspection when "reasonable legislative or administrative standards are satisfied", a probable cause requirement derived from *Marshall* v. *Barlow's Inc.*, 436 U.S. 307 (1978). The amendments further specify that affidavits in support of general schedule inspection warrants contain "factual allegations sufficient to justify an independent determination by the judge that the inspection program is based on reasonable standards and that the standards are being applied to a particular workplace in a neutral and fair manner." For example, if a selection is based upon an industry's high hazard ranking, the amendments specify that the affidavit shall disclose the method and numerical basis for the ranking, the inspection history of the worksite in question and the status of other worksites in the area. Federal OSHA presently includes comparable information in its application for Federally-issued warrants. The new Virginia legislation addresses potential problems of advance notice and confidentiality by specifying that the affidavit shall not be required to disclose the actual schedule for inspections or the underlying data on which the statistics are based, provided that such statistics are derived from reliable, neutral third parties.

In addition to providing for the issuance of *Barlow's* type general schedule warrants, §40.1–49.9 authorizes the courts to issue warrants where there is "cause to believe that there is a condition, object, activity or circumstance which legally justifies such an inspection." Among other things, this language would authorize the issuance of warrants to conduct employee complaint inspections or other investigations for which specific probable cause exists.

Sections 40.1–49.10 and 40.1–49.11 contain procedures for the proper execution of inspection warrants, including provisions for forcible entry in appropriate cases.

Section 40.1–49.12 contains provisions which directly address the terms and conditions under which judicial review of warrants may be obtained. Subsection 40.1–49.12A precludes review by any court of an administrative warrant prior to its execution, except as a defense in a contempt proceeding. The owner of the workplace to be searched may obtain judicial review if he "makes by affidavit a substantial preliminary showing accompanied by an offer of proof that (i) a false statement, knowingly and intentionally, or with reckless disregard for the truth, was included by the affiant in his affidavit for the administrative search warrant and (ii) the false statement was necessary to the finding of probable cause." After execution of an administrative warrant, §40.1–49.12.B of the new legislation provides for judicial review "as a defense to any citation", or by means of a declaratory judgment action in the Circuit Court if no citation is issued as a result of the inspection. The legislation specifically provides that "in any such action the review shall be confined to the face of the warrant and affidavits and supporting materials presented to the issuing judge," unless the employer can show that "a false statement, knowingly and intentionally or with reckless disregard of the truth was made in support of the warrant and . . . the false statement was necessary to the finding of probable cause." The legislation specifically precludes *de novo* determination of probable cause, and directs the reviewing court to determine whether there is substantial evidence in the record supporting the decision to issue the warrant.

As stated by sponsors of the recent Virginia legislation, the intent of these amendments is to make Virginia law and procedure consistent with Federal court decisions in the area of administrative warrant law and procedure, to secure the Virginia occupational safety and health program a right of entry on the same terms and conditions available to Federal OSHA, and thus to assure the continued Federal approval of the Virginia State plan. The State has expressed confidence that the new legislation will achieve these results. OSHA has reviewed the legislation and also believes that it provides a basis for VOSH to obtain search warrants on terms and conditions equivalent to those which are available Federally. The legislation is applicable to all VOSH warrant cases and, in summary, provides that judicial review shall be limited to the face of the warrant, the application and other material actually presented to the issuing judge. The single exception permitted by the legislation is no broader than that recognized by the U.S. Supreme Court in *Franks* v. *Delaware*, i.e., review only in unusual cases in which material fraud or reckless disregard for the truth can be shown. Furthermore, the allegedly false or fraudulent matter must be shown to have been essential to the magistrate's probable cause determination. OSHA believes that this legislation satisfactorily addresses the legal problems incurred by VOSH as a result of recent state court action. Accordingly, the above-described amendments to the Virginia Occupational Safety and Health Act are today approved by OSHA in accordance with regulations at 29 CFR Part 1953, which sets forth procedures for Federal review of changes to approved State plans. Additionally, the exercise of concurrent Federal jurisdiction with regard to employer denials of entry for general schedule inspections, as announced in the December 12, 1986 **Federal Register**, was terminated when the amendments became effective on July 1, 1987.

Location of Plan Supplement for Inspection and Copying

A copy of the plan and its supplements may be inspected during normal business hours at the following locations: Office of Regional Administrator, Occupational Safety and Health Administration, 3535 Market Street, Suite 2100, Philadelphia, Pennsylvania 19104; Office of the Commissioner, Virginia Department of Labor and Industry, 205 North Fourth Street, P.O. Box 12064, Richmond, Virginia 23241; and OSHA Office of State Programs, Room N–3700, 200 Constitution Avenue NW., Washington, DC 20210.

Public Participation

Under §1953.2(c) of this chapter the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the State amendments were enacted by the Virginia General Assembly in accordance with the requirements of State law. Good cause therefore is found for approval of these amendments without further public participation.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

Decision

After careful consideration and review by the OSHA Regional and National Offices, the Virginia Plan supplement described above is found to be as effective as comparable Federal procedures and is hereby approved under Part 1953 of this chapter. In addition, notice is hereby given that the exercise of limited concurrent Federal enforcement authority which began on October 1, 1986, and was announced in the December 12, 1986, **Federal Register**, was terminated coincident to the Virginia legislative amendments becoming effective on July 1, 1987.

(Secs. 8, 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 657, 667); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 9–83 (48 FR 35736), as applicable)

Signed at Washington, DC, this 14 day of September 1987.

John A. Pendergrass,

Assistant Secretary of Labor.

Accordingly, Subpart EE of 29 CFR Part 1952 is hereby amended as follows:

PART 1952—[AMENDED]

1. The authority citation for Part 1952 continues to read:

Authority: Secs. 8, 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 657, 667); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 9–83 (48 FR 35736), as applicable.

2. A new § 1952.377 is added to reflect the approval of significant program changes to read as follows:

§ 1952.377 Changes to approved plans.

In accordance with Part 1953 of this chapter, the following Virginia plan changes were approved by the Assistant Secretary:

(a) The State submitted legislative amendments related to the issuance and judicial review of administrative search warrants which became effective on July 1, 1987. The Assistant Secretary approved these amendments on 14 September, 1987.

[FR Doc. 87–21506 Filed 9–16–87; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 16

Program Fraud Civil Remedies

AGENCY: Departmental Offices, Office of Inspector General (OIG), Treasury.

ACTION: Final rule.

SUMMARY: This rule implements the Program Fraud Civil Remedies Act of 1986, which authorizes the Department of the Treasury (and certain other federal agencies) to impose through administrative adjudication civil penalties and assessments against persons making false claims and statements to it.

EFFECTIVE DATE: These regulations become effective September 17, 1987.

FOR FURTHER INFORMATION CONTACT: Alexandra Keith, Counsel to the Inspector General, Room 2218, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, (202) 566–5668.

SUPPLEMENTARY INFORMATION: The Program Fraud Civil Remedies Act ("Act"), Pub. L. 99–509, enacted on October 21, 1986, and codified at 31 U.S.C. 3801 through 3812, generally provides that any person who knowingly submits a false claim or statement to the Federal Government in an amount less than $150,000 may be liable for an administrative civil penalty of not more than $5,000 for each false claim or statement, and, in certain cases, to an assessment equal to double the amount falsely claimed.

The Act vests authority to investigate allegations of liability under its provisions in an agency's investigating official. Based upon the results of an investigation, the agency reviewing official determines, with the concurrence of the Attorney General, whether to refer the matter to a presiding officer for an administrative hearing. Any penalty or assessment imposed under the Act may be collected by the Attorney General, through the filing of a civil action, or by offsetting amounts other than tax refunds, owed the particular party by the Federal government.

The Act grants agency investigating officials authority to require by subpoena the production of documentary evidence which is "not otherwise reasonably available." If the case proceeds to hearing, the presiding officer may require the attendance and testimony of witnesses as well as the production of documentary evidence.

The Department of the Treasury is proposing to adopt implementing regulations as new 31 CFR Part 16, which would designate the Assistant Secretary of the Treasury for Management as the authority head, the Department's administrative Inspector General as the investigating official, and would assign the role of reviewing official to the General Counsel or his designee.

Any hearing under the Act would be presided over by an Administrative Law Judge. Administrative appeals of a presiding officer's decision would be determined by the authority head.

Congress, in other legislation, has provided the United States Customs Service with a comprehensive statutory scheme for penalizing civil violations of the tariff and trade laws, including the prosecution of matters within the jurisdiction of the jurisdiction of the Court of International Trade (28 U.S.C. 1581). Accordingly, it is not anticipated that the investigating official will, pursuant to his authority under these regulations, investigate allegations of violations of tariff and trade laws, for which an administrative remedy exists under those laws.

Special Analyses

Because these regulations relate to agency organization and management they are not subject to Executive order 12291. In general, the rule establishes procedures governing the scope and conduct of administrative adjudications to impose civil penalties and assessments upon persons who submit false claims or statements to the Department. Accordingly, a regulatory impact analysis is not required.

Similarly, it is hereby certified that this regulation would not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required pursuant to the Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 5 U.S.C. 604(a).

List of Subjects in 31 CFR Part 16

Administrative practice and procedure, Fraud, Investigations, Organizations and functions (Government agencies), Penalties.

Title 31 of the Code of Federal Regulations is amended as follows:

I. In Title 31 of the Code of Federal Regulations, a new Part 16, Program Fraud Civil Remedies, is added to read as follows:

PART 16—REGULATIONS IMPLEMENTING THE PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

Sec.

Authority: 31 U.S.C. 3801–3812.

§ 16.1 Basis and purpose.

(a) *Basis.* This part implements the Program Fraud Civil Remedies Act of 1986, Pub. L. No. 99–509, sections 6101–6104, 100 Stat. 1874 (October 21, 1986), to be codified at 31 U.S.C. 3801–3812. 31 U.S.C. 3809 requires each authority head to promulgate regulations necessary to implement the provisions of the statute.

(b) *Purpose.* This part

(1) Establishes administrative procedures for imposing civil penalties and assessments against persons who

make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to authorities or to their agents, and

(2) Specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments.

§ 16.2 Definitions.

ALJ means an Administrative Law Judge in the authority appointed pursuant to 5 U.S.C. 3105 or detailed to the authority pursuant to 5 U.S.C. 3344.

Authority means the Department of the Treasury.

Authority head means the Assistant Secretary of the Treasury for Management.

Benefit, when used in the context of false statements made with respect to a benefit, means anything of value including but not limited to any advantage, preference, privilege, license, permit, favorable decision, ruling, status, or loan guarantee. This definition should be distinguished from the limitations on coverage of these regulations with respect to beneficiaries of specific benefit programs which are found in § 16.3(c) of this part.

Claim means any request, demand, or submission—

(a) Made to the authority for property, services, or money (including money representing grants, loans, insurance, or benefits);

(b) Made to a recipient of property, services, or money from the authority or to a party to a contract with the authority—

(1) For property or services if the United States—

(i) Provided such property or services;

(ii) Provided any portion of the funds for the purchase of such property or services; or

(iii) Will reimburse such recipient or party for the purchase of such property or services; or

(2) For the payment of money (including money representing grants, loans, insurance, or benefits) if the United States—

(i) Provided any portion of the money requested or demanded; or

(ii) Will reimburse such recipient or party for any portion of the money paid on such request or demand; or

(c) Made to the authority which has the effect of decreasing an obligation to pay or account for property, services, or money, except that such term does not include any claim made in any return of tax imposed by the Internal Revenue Code of 1954.

Complaint means the administrative complaint served by the reviewing official on the defendant under § 16.7 of this part.

Defendant means any person alleged in a complaint under § 16.7 to be liable for a civil penalty or assessment under § 16.3.

Department means the Department of the Treasury.

Government means the United States Government.

Individual means a natural person.

Initial decision means the written decision of the ALJ required by § 16.10 or § 16.37, and includes a revised initial decision issued following a remand or a motion for reconsideration.

Investigating official means the Inspector General of the Department of the Treasury.

Knows or has reason to know, means that a person, with respect to a claim or statement—

(a) Has actual knowledge that the claim or statement is false, fictitious, or fraudulent;

(b) Acts in deliberate ignorance of the truth or falsity of the claim or statement; or

(c) Acts in reckless disregard of the truth or falsity of the claim or statement.

Makes, wherever it appears, shall include the terms "presents," "submits," and "causes to be made, presented," or "submitted." As the context requires, *making* or *made*, shall likewise include the corresponding forms of such terms.

Person means any individual, partnership, corporation, association, private organization, State, political subdivision of a State, municipality, county, district, and Indian tribe, and includes the plural of that term.

Presiding officer means an administrative law judge appointed in the authority pursuant to 5 U.S.C. 3105 or detailed to the authority pursuant to section 3344 of such title.

Representative means an attorney designated in writing by a defendant to appear on his or her behalf in administrative hearings before the Department and to represent a defendant in all other legal matters regarding a complaint made pursuant to these regulations.

Reviewing official means the General Counsel, or another individual in the Legal Division of the Department designated by the General Counsel, who is—

(a) Serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS–16; and

(b) Is not subject to supervision by, or required to report to, the investigating official; and

(c) Is not employed in the organization unit of the authority in which the investigating official is employed.

Statement means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made—

(a) With respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or

(b) With respect to (including relating to eligibility for)—

(1) A contract with, or a bid or proposal for a contract with; or

(2) A grant, loan, or benefit from, the authority, or any State, political subdivision of a State, or other party, if the United States Government provides any portion of the money or property under such contract or for such grant, loan, or benefit, or if the government will reimburse such State, political subdivision, or party of any portion of the money or property under such contract or for such grant, loan, or benefit, except that such term does not include any claim made in any return of tax imposed by the Internal Revenue Code of 1954.

§ 16.3 Basis for civil penalties and assessments.

(a) *Claims.* (1) Except as provided in paragraph (c) of this section, any person who makes a claim that the person knows or has reason to know—

(i) Is false, fictitious, or fraudulent;

(ii) Includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

(iii) Includes or is supported by any written statement that—

(A) Omits a material fact;

(B) Is false, fictitious, or fraudulent as a result of such omission; and

(C) Is a statement in which the person making such statement has a duty to include such material fact; or

(iv) Is for payment for the provision of property or services which the person has not provided as claimed, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,000 for each such claim.

(2) Each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim.

(3) A claim shall be considered made to an authority, recipient, or party when such claim is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on

behalf of such authority, recipient, or party.

(4) Each claim for property, services, or money is subject to a civil penalty under these regulations regardless of whether such property, services, or money is actually delivered or paid.

(5) If the government has made any payment (including transferred property or provided services) on a claim, a person subject to a civil penalty under paragraph (a)(1) of this section shall also be subject to an assessment of not more than twice the amount of such claim or that portion thereof that is determined to be in violation of paragraph (a)(1) of this section. Such assessment shall be in lieu of damages sustained by the Government because of such claim.

(b) *Statements.* (1) Except as provided in paragraph (c) of this section, any person who makes a written statement that—

(i) The person knows or has reason to know—

(A) Asserts a material fact which is false, fictitious, or fraudulent; or

(B) Is false, fictitious, or fraudulent because it omits a material fact that the person making the statement has a duty to include in such statement; and

(ii) Includes or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the content of the statement,

shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,000 for each such statement.

(2) Each written representation, certification, or affirmation constitutes a separate statement.

(3) A statement shall be considered made to an authority when such statement is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of such authority.

(c)(1) In the case of any claim or statement made by any individual relating to any of the benefits listed in paragraph (c)(2) of this section, received by such individual, such individual may be held liable for penalties and assessments under this section only if such claim or statement is made by such individual in making application for such benefits with respect to such individual's eligibility to receive such benefits.

(2) For purposes of this paragraph, the term "benefits" means—

(i) Benefits under the food stamp program (as defined in section 3(h) of the Food Stamp Act of 1977);

(ii) Benefits under chapters 11, 13, 15, 17, and 21 of title 38;

(iii) Benefits under the Black Lung Benefits Act;

(iv) Any authority or other benefit under the Railroad Retirement Act of 1974;

(v) Benefits under the National School Lunch Act;

(vi) Benefits under any housing assistance program for lower income families or elderly or handicapped persons which is administered by the Secretary of Housing and Urban Development or the Secretary of Agriculture;

(vii) Benefits under the special supplemental food program for women, infants, and children established under section 17 of the Child Nutrition Act of 1966;

(viii) Benefits under part A of the Energy Conservation in Existing Buildings Act of 1976;

(ix) Benefits under the supplemental security income program under title XVI of the Social Security Act;

(x) Old age, survivors, and disability insurance benefits under title II of the Social Security Act;

(xi) Benefits under title XVIII of the Social Security Act;

(xii) Aid to families with dependent children under a State plan approved under section 402(a) of the Social Security Act;

(xiii) Medical assistance under a State plan approved under section 1902(a) of the Social Security Act;

(xiv) Benefits under title XX of the Social Security Act;

(xv) Benefits under section 336 of the Older Americans Act; or

(xvi) Benefits under the Low-Income Home Energy Assistance Act of 1981,

which are intended for the personal use of the individual who receives the benefits or for a member of the individual's family.

(d) No proof of specific intent to defraud is required to establish liability under this section.

(e) In any case in which it is determined that more than one person is liable for making a claim or statement under this section, each such person may be held liable for a civil penalty under this section.

(f) In any case in which it is determined that more than one person is liable for making a claim under this section, and on which the Government has made payment (including transferred property or provided services), an assessment may be imposed against any such person or jointly and severally against any combination of such persons.

§ 16.4 Investigation.

(a) If an investigating official concludes that a subpoena pursuant to the authority conferred by 31 U.S.C. 3804(a) is warranted—

(1) The subpoena so issued shall notify the person to whom it is addressed of the authority under which the subpoena is issued and shall identify the information, records, or documents sought;

(2) The investigating official may designate a person to act on his behalf to receive the information, records, or documents sought; and

(3) The person receiving such subpoena shall be required to tender to the investigating official or to the person designated to receive the information, records, or documents, a certification that the information, records, or documents sought have been produced, or that such information, records, or documents are not available and the reasons therefor, or that such information, records, or documents, suitably identified, have been withheld based upon the assertion of an identified legal privilege.

(b) If the investigating official concludes that an action under the Program Fraud Civil Remedies Act may be warranted, the investigating official shall report the findings and conclusions of such investigation to the reviewing official.

(c) Nothing in this section shall preclude or limit the investigating official's discretion to refer allegations directly to the Department of Justice for suit under the False Claims Act, 31 U.S.C. 3729–3731, or for other civil relief, or to preclude or limit such official's discretion to defer or postpone a report or referral to avoid interference with an investigation into criminal misconduct or a criminal prosecution.

(d) Nothing in this section modifies any responsibility of the investigating official to report violations of criminal law to the Attorney General.

§ 16.5 Review by the reviewing official.

(a) If, based on the report of the investigating official under § 16.4(b), the reviewing official determines that there is adequate evidence to believe that a person is liable under § 16.3 of this part, the reviewing official shall transmit to the Attorney General a written notice of the reviewing official's intention to issue a complaint under § 16.7.

(b) Such notice shall include—

(1) A statement of the reviewing official's reasons for issuing a complaint;

(2) A statement specifying the evidence that supports the allegations of liability;

(3) A description of the claims or statements upon which the allegations of liability are based;

(4) An estimate of the amount of money or the value, if any, of property, services, or other benefits requested or demanded in violation of § 16.3 of this part; or, if no monetary value can be put on the property, service or benefit, a statement regarding the non-monetary consequences to the agency of a false statement.

(5) A statement of any exculpatory or mitigating circumstances that may relate to the claims or statements known by the reviewing official or the investigating official; and

(6) A statement that there is a reasonable prospect of collecting an appropriate amount of penalties and assessments. Such a statement may be based upon information then known or an absence of any information indicating that the person may be unable to pay such an amount.

§ 16.6 Prerequisites for issuing a complaint.

(a) The reviewing official may issue a complaint under § 16.7 only if—

(1) The Department of Justice approves the issuance of a complaint in a written statement described in 31 U.S.C. 3803(b)(l), and

(2) In the case of allegations of liability under § 16.3(a) with respect to a claim, the reviewing official determines that, with respect to such claim or a group of related claims submitted at the same time such claim is submitted (as defined in paragraph (b) of this section), the amount of money or the value of property or services demanded or requested in violation of § 16.3(a) does not exceed $150,000.

(b) For the purposes of this section, a related group of claims submitted at the same time shall include only those claims arising from the same transaction (e.g., grant, loan, application, or contract) that are submitted simultaneously as part of a single request, demand, or submission.

(c) Nothing in this section shall be construed to limit the reviewing official's authority to join in a single complaint against a person, claims that are unrelated or were not submitted simultaneously, regardless of the amount of money or the value of property or services demanded or requested, as long as the total amount for each claim does not exceed $150,000.

§ 16.7 Complaint.

(a) On or after the date the Attorney General or his designee approves the issuance of a complaint in accordance with 31 U.S.C. 3803(b)(1), the reviewing official may serve a complaint on the defendant, as provided in § 16.8.

(b) The complaint shall state—

(1) The allegations of liability against the defendant, including the statutory basis for liability, an identification of the claims or statements that are the basis for the alleged liability, and the reasons why liability allegedly arises from such claims or statements;

(2) The maximum amount of penalties and assessments for which the defendant may be held liable;

(3) Instructions for filing an answer to request a hearing, including a specific statement of the defendant's right to request a hearing by filing an answer and to be represented by an attorney;

(4) That the defendant has a right to review and obtain certain information pursuant to Section 16.20 herein; and

(5) That failure to file an answer within 30 days of service of the complaint will result in the imposition of the maximum amount of penalties and assessments without right to appeal.

(c) At the same time the reviewing official serves the complaint on the defendant(s), he or she shall serve the defendant with a copy of these regulations.

§ 16.8 Service of complaint.

(a) Service of a complaint must be made by a certified or registered mail or by delivery in any manner authorized by Rule 4(d) of the Federal Rules of Civil Procedure.

(b) Proof of service, stating the name and address of the person on whom the complaint was served, and the manner and date of service, may be made by—

(1) Affidavit of the individual making service;

(2) An acknowledged United States Postal Service return receipt card; or

(3) Written acknowledgement of the defendant or his representative.

§ 16.9 Answer.

(a) The defendant may request a hearing by filing an answer with the reviewing official within 30 days of service of the complaint. An answer shall be deemed to be a request for hearing.

(b) In the answer, the defendant—

(1) Shall admit or deny each of the allegations of liability made in the complaint;

(2) Shall state any defense on which the defendant intends to rely;

(3) May state any reasons why the defendant contends that the penalties and assessments should be less than the statutory maximum; and

(4) Shall state whether the defendant has authorized an attorney to act as defendant's representative, and shall state the name, address, and telephone number of the representative.

§ 16.10 Default upon failure to file an answer.

(a) If the defendant does not file an answer within the time prescribed in § 16.9(a), the reviewing official may refer the complaint to the ALJ for initial decision.

(b) Upon the referral of the complaint, the ALJ shall promptly serve on defendant in the manner prescribed in § 16.8, a notice that an initial decision will be issued under this section.

(c) If the defendant fails to file a timely answer, the ALJ shall assume the facts alleged in the complaint to be true and, if such facts eatablish liability under § 16.3, the ALJ shall issue an initial decision imposing the maximum amount of penalties and assessments allowed under the statute.

(d) Except as otherwise provided in this section, by failing to file a timely answer, the defendant waives any right to further review of the penalties and assessments imposed under paragraph (c) of this section, and the initial decision shall become final and binding upon the parties 30 days after it is issued.

(e) If, before such an initial decision becomes final, the defendant files a motion with the ALJ, and serves a copy on the agency, seeking to reopen on the grounds that extraordinary circumstances prevented the defendant from filing a timely answer, the initial decision shall be stayed pending the ALJ's decision on the motion. The ALJ shall permit the agency a reasonable amount of time, not less than 15 calendar days, to respond to the defendant's motion.

(f) If, on such motion, the defendant can demonstrate extraordinary circumstances excusing the failure to file a timely answer, the ALJ shall withdraw the initial decision, if such a decision has been issued pursuant to paragraph (c) of this section, and shall grant the defendant an opportunity to answer the complaint.

(g) A decision of the ALJ denying a defendant's motion under paragraph (e) of this section is not subject to reconsideration under § 16.38.

(h) The defendant may appeal to the authority head the decision denying a motion to reopen by filing a notice of appeal with the authority head within 15 days after the ALJ denies the motion. The timely filing of a notice of appeal shall stay the initial decision until the authority head decides the issue.

(i) If the defendant files a timely notice of appeal with the authority head.

the ALJ shall forward the record of the proceeding to the authority head.

(j) The authority head shall decide expeditiously, and based solely on the record before the ALJ, whether extraordinary circumstances excuse the defendant's failure to file a timely answer.

(k) If the authority head decides that extraordinary circumstances excuse the defendant's failure to file a timely answer, the authority head shall remand the case to the ALJ with instructions to grant the defendant an opportunity to file an answer.

(l) If the authority head decides that the defendant's failure to file a timely answer is not excused, the authority head shall reinstate the initial decision of the ALJ, which shall become final and binding upon the parties 30 days after the authority head issues such decision.

§ 16.11 Referral of complaint and answer to the ALJ.

Upon receipt of an answer, the reviewing official shall file the complaint and answer with the ALJ.

§ 16.12 Notice of hearing.

(a) When the ALJ receives the complaint and answer, the ALJ shall promptly serve a notice of hearing upon the defendant and the agency representative in the manner prescribed by § 16.8.

(b) Such notice shall include—

(1) The tentative time and place, and the nature of the hearing;

(2) The legal authority and jurisdiction under which the hearing is to be held;

(3) The matters of fact and law to be asserted;

(4) A description of the procedures for the conduct of the hearing;

(5) The names, addresses, and telephone numbers of the representatives of the Government and of the defendant, if any; and

(6) Such other matters as the ALJ deems appropriate.

§ 16.13 Parties to the hearing.

(a) The parties to the hearing shall be the defendant and the authority.

(b) Pursuant to 31 U.S.C. 3730(c)(5), a private plaintiff under the False Claims Act may participate in these proceedings to the extent authorized by the provisions of that Act.

§ 16.14 Separation of functions.

(a) The investigating official, the reviewing official, and any employee or agent of the authority who takes part in investigating, preparing, or presenting a particular case may not, in such case or a factually related case—

(1) Participate in the hearing as the ALJ;

(2) Participate or advise in the initial decision or the review of the initial decision by the authority head, except as a witness or a representative in public proceedings; or

(3) Make the collection of penalties and assessments under 31 U.S.C. 3806.

(b) The ALJ shall not be responsible to, or subject to the supervision or direction of the investigating official or the reviewing official.

(c) Except as provided in paragraph (a) of this section, the representative for the Government may be an attorney employed anywhere in the Legal Division of the Department, or an attorney employed in the offices of either the investigating official or the reviewing official; however the representative of the Government may not participate or advise in the review of the initial decision by the authority head.

§ 16.15 Ex parte contacts.

No party or person (except employees of the ALJ's office) shall communicate in any way with the ALJ on any matter at issue in a case, unless on notice and opportunity for all parties to participate. This provision does not prohibit a person or party from inquiring about the status of a case or asking routine questions concerning administrative functions or procedures.

§ 16.16 Disqualification of reviewing official or ALJ.

(a) A reviewing official or ALJ in a particular case may disqualify himself or herself at any time.

(b) A party may file with the ALJ a motion for disqualification of a reviewing official or an ALJ. Such motion shall be accompanied by an affidavit alleging personal bias or other reason for disqualification.

(c) Such motion and affidavit shall be filed promptly upon the party's discovery of reasons requiring disqualification, or such objections shall be deemed waived.

(d) Such affidavit shall state specific facts that support the party's assertion that personal bias or other reason for disqualification exists and the time and circumstances of the party's discovery of such facts. It shall be accompanied by a certificate of the representative of record that it is made in good faith.

(e) Upon the filing of such a motion and affidavit, the ALJ shall proceed no further in the case until he or she resolves the matter of disqualification in accordance with paragrpah (f) of this section.

(f)(1) If the ALJ determines that a reviewing official is disqualified, the ALJ shall dismiss the complaint without prejudice.

(2) If the ALJ disqualifies himself or herself, the agency shall seek to have the case promptly reassigned to another ALJ.

(3) If the ALJ denies a motion to disqualify, the authority head may determine the matter only as part of his or her review of the initial decision upon appeal, if any.

§ 16.17 Rights of parties.

Except as otherwise limited by this part, all parties may—

(a) Be accompanied, represented, and advised by an attorney;

(b) Participate in any conference held by the ALJ;

(c) Conduct discovery;

(d) Agree to stipulations of fact or law, which shall be made part of the record;

(e) Present evidence relevant to the issues at the hearing;

(f) Present and cross-examine witnesses;

(g) Present oral arguments at the hearing as permitted by the ALJ; and

(h) Submit written beliefs and proposed findings of fact and conclusions of law after the hearing.

§ 16.18 Authority of the ALJ.

(a) The ALJ shall conduct a fair and impartial hearing, avoid delay, maintain order, and assure that a record of the proceeding is made.

(b) The ALJ has the authority to—

(1) Set and change the date, time, and place of the hearing upon reasonable notice to the parties;

(2) Continue or recess the hearing in whole or in part for a reasonable period of time;

(3) Hold conferences to identify or simplify the issues, or to consider other matters that may aid in the expeditious disposition of the proceeding;

(4) Administer oaths and affirmations;

(5) Issue subpoenas requiring the attendance of witnesses and the production of documents at depositions or at hearings;

(6) Rule on motions and other procedural matters;

(7) Regulate the scope and timing of discovery;

(8) Regulate the course of the hearing and the conduct of representatives and parties;

(9) Examine witnesses;

(10) Receive, rule on, exclude, or limit evidence;

(11) Upon motion of a party, take official notice of facts;

(12) Upon motion of a party, decide cases, in whole or in part, by summary

judgment where there is no disputed issue of material fact;

(13) Conduct any conference, argument, or hearing on motions in person or by telephone; and

(14) Exercise such other authority as is necessary to carry out the responsibilities of the ALJ under this part.

(c) The ALJ does not have the authority to make any determinations regarding the validity of Federal statutes or regulations, or Departmental Orders, Directives, or other published rules.

§ 16.19 Prehearing conferences.

(a) The ALJ may schedule prehearing conferences as appropriate.

(b) Upon the motion of any party, the ALJ shall schedule at least one prehearing conference at a reasonable time in advance of the hearing.

(c) The ALJ may use prehearing conferences to discuss the following:

(1) Simplification of the issues;

(2) The necessity or desirability of amendments to the pleadings, including the need for a more definite statement;

(3) Stipulations, admissions of fact or the content and authenticity of documents;

(4) Whether the parties can agree to submission of the case on a stipulated record;

(5) Whether a party chooses to waive appearance at an oral hearing and to submit only documentary evidence (subject to the objection of other parties) and written argument;

(6) Limitation of the number of witnesses;

(7) Scheduling dates for the exchange of witness lists and of proposed exhibits;

(8) Discovery;

(9) The time and place for the hearing; and

(10) Such other matters as may tend to expedite the fair and just disposition of the proceedings.

(d) The ALJ may issue an order containing all matters agreed upon by the parties or ordered by the ALJ at a prehearing conference.

§ 16.20 Disclosure of documents.

(a) Upon written request to the reviewing official, the defendant may review any relevant and material documents, transcripts, records, and other material that relate to the allegations set out in the complaint and upon which the findings and conclusions of the investigating official under § 16.4(b) are based unless such documents are subject to a privilege under Federal law. The Department shall schedule such review at a time and place convenient to it. Upon payment of fees for duplication, the defendant may obtain copies of such documents.

(b) Upon written request to the reviewing official, the defendant also may obtian a copy of all exculpatory information in the possession of the reviewing official or investigating official relating to the allegations in the complaint, even if it is contained in a document that would otherwise be privileged. If the document would otherwise be privileged, only that portion containing exculpatory information must be disclosed.

(c) The notice sent to the Attorney General from the reviewing official as described in § 16.5 is not discoverable under any circumstances.

(d) The defendant may file a motion to compel disclosure of the documents subject to the provisions of this section. Such a motion may only be filed with the ALJ following the filing of an answer pursuant to § 16.9.

§ 16.21 Discovery.

(a) The following types of discovery are authorized:

(1) Requests for production of documents for inspection and copying;

(2) Requests for admissions of the authenticity of any relevant document or of the truth of any relevant fact;

(3) Written interrogatories; and

(4) Depositions.

(b) For the purposes of this section and §§ 16.22 and 16.23, the term "documents" includes information, documents, reports, answers, records, accounts, papers, and other data, either paper or electronic, and other documentary evidence. Nothing contained herein shall be interpreted to require the creation of a document.

(c) Unless mutually agreed to by the parties, discovery is available only as ordered by the ALJ. The ALJ shall regulate the timing of discovery.

(d) *Motions for discovery.* (1) A party seeking discovery may file a motion with the ALJ if it is not made available by another party on an informal basis. Such a motion shall be accompanied by a copy of the requested discovery, or in the case of depositions, a summary of the scope of the proposed deposition, and a description of the efforts which have been made by the party to obtain discovery.

(2) Within ten days of service, a party may file an opposition to the motion and/or a motion for protective order as provided in § 16.24.

(3) The ALJ may grant a motion for discovery only if he or she finds that the discovery sought—

(i) Is necessary for the expeditious, fair, and reasonable consideration of the issues;

(ii) Is not unduly costly or burdensome;

(iii) Will not unduly delay the proceeding; and

(iv) Does not seek privileged information.

(4) The burden of showing that discovery should be allowed is on the party seeking discovery.

(5) The ALJ may grant discovery subject to a protective order under § 16.24.

(e) *Depositions.* (1) If a motion for deposition is granted, the ALJ shall issue a subpoena for the deponent, which may require the deponent to produce documents. The subpoena shall specify the time and place at which the deposition will be held.

(2) The party seeking to depose shall serve the subpoena in the manner prescribed in § 16.8.

(3) The deponent may file with the ALJ a motion to quash the subpoena or a motion for a protective order within ten days of service.

(4) The party seeking to depose shall provide for the taking of a verbatim transcript of the deposition, which it shall make available to all other parties for inspection and copying.

(f) Each party shall bear its own costs of discovery.

§ 16.22 Exchange of witness lists, statements, and exhibits.

(a) At least 15 days before the hearing or at such other time as may be ordered by the ALJ, the parties shall exchange witness lists, copies of prior statements of proposed witnesses, and copies of proposed hearing exhibits, including copies of any written statements that the party intends to offer in lieu of live testimony in accordance with § 16.33(b). At the time the above documents are exchanged, any party that intends to rely on the transcript of deposition testimony in lieu of live testimony at the hearing, if permitted by the ALJ, shall provide each party with a copy of the specific pages of the transcript it intends to introduce into evidence.

(b) If a party objects, the ALJ shall not admit into evidence the testimony of any witness whose name does not appear on the witness list or any exhibit not provided to the opposing party as provided above unless the ALJ finds good cause and that there is no prejudice to the objecting party.

(c) Unless another party objects within the time set by the ALJ, documents exchanged in accordance with paragraph (a) of this section, shall be deemed to be authentic for the purpose of admissibility at the hearing.

§ 16.23 Subpoenas for attendance at hearing.

(a) A party wishing to procure the appearance and testimony of any individual at the hearing may request that the ALJ issue a subpoena.

(b) A subpoena requiring the attendance and testimony of an individual may also require the individual to produce documents at the hearing.

(c) A party seeking a subpoena shall file a written request therefor not less than 15 days before the date fixed for the hearing unless otherwise allowed by the ALJ for good cause shown. Such request shall specify any documents to be produced and shall designate the witnesses and describe the address and location thereof with sufficient particularity to permit such witnesses to be found.

(d) The subpoena shall specify the time and place at which the witness is to appear and any documents the witness is to bring with him or her.

(e) The party seeking the subpoena shall serve it in the manner prescribed in § 16.8. A subpoena on a party or upon an individual under the control of a party may be served by first class mail.

(f) A party or the individual to whom the subpoena is directed may file with the ALJ a motion to quash the subpoena within ten days after service or on or before the time specified in the subpoena for compliance if it is less than ten days after service.

§ 16.24 Protective order.

(a) A party or a prospective witness or deponent may file a motion for a protective order with respect to discovery sought by an opposing party or with respect to the hearing, seeking to limit the availability or disclosure of evidence.

(b) In issuing a protective order, the ALJ may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) That the discovery not be had;

(2) That the discovery may be had only on specified terms and conditions, including a designation of the time or place;

(3) That the discovery may be had only through a method of discovery other than that requested;

(4) That certain matters not be inquired into, or that the scope of discovery be limited to certain matters;

(5) That discovery be conducted with no one present except persons designated by the ALJ;

(6) That the contents of discovery or evidence be sealed;

(7) That a deposition after being sealed be opened only by order of the ALJ;

(8) That a trade secret or other confidential research, development, commercial information, or facts pertaining to any criminal investigation, proceeding, or other administrative investigation not be disclosed or be disclosed only in a designated way; or

(9) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the ALJ.

§ 16.25 Fees.

The party requesting a subpoena shall pay the cost of the fees and mileage of any witness subpoenaed in the amounts that would be payable to a witness in a proceeding in United States District Court. A check for witness fees and mileage shall accompany the subpoena when served, except that when a subpoena is issued on behalf of the authority, a check for witness fees and mileage need not accompany the subpoena.

§ 16.26 Form, filing and service of papers.

(a) *Form.* (1) Documents filed with the ALJ shall include a original and two copies.

(2) Every pleading and paper filed in the proceeding shall contain a caption setting forth the title of the action, the case number assigned by the ALJ, and a designation of the paper (*e.g.*, motion to quash subpoena).

(3) Every pleading and paper shall be signed by, and shall contain the address and telephone number of the party or the person on whose behalf the paper was filed, or his or her representative.

(4) Papers are considered filed when they are mailed. Date of mailing may be established by a certificate from the party or its representative or by proof that the document was sent by certified or registered mail.

(b) *Service.* A party filing a document with the ALJ shall, at the time of filing, serve a copy of such document on every other party. Service upon any party of any document other than the complaint or notice of hearing shall be made by delivering or mailing a copy to the party's last known address. When a party is represented by an attorney, service shall be made upon such representative in lieu of the actual party.

(c) *Proof of service.* A certificate of the individual serving the document by personal delivery or by mail, setting forth the manner of service, shall be proof of service.

§ 16.27 Computation of time.

(a) In computing any period of time under this part or in an order issued thereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal government, in which event it includes the next business day.

(b) When the period of time allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays observed by the Federal government shall be excluded from the computation. When the period of time allowed is more than seven days, all intervening calendar days are included in the computation.

(c) Where a document has been served or issued by mail, an additional five days will be added to the time permitted for any response.

§ 16.28 Motions.

(a) Any application to the ALJ for an order or ruling shall be by motion. Motions shall state the relief sought, the authority relied upon, and the facts alleged, and shall be filed with the ALJ and served on all other parties.

(b) Except for motions made during a prehearing conference or at the hearing, all motions shall be in writing. The ALJ may require that oral motions be reduced to writing.

(c) Within 15 days after a written motion is served, or such other time as may be fixed by the ALJ, any party may file a response to such motion.

(d) The ALJ may not grant a written motion before the time for filing responses thereto has expired, except upon consent of the parties or following a hearing on the motion, but may overrule or deny such motion without awaiting a response.

(e) The ALJ shall make a reasonable effort to dispose of all outstanding motions prior to the beginning of the hearing.

§ 16.29 Sanctions.

(a) The ALJ may sanction a person, including any party or representative for—

(1) Failing to comply with an order, rule, or procedure governing the proceeding;

(2) Failing to prosecute or defend an action; or

(3) Engaging in other misconduct that interferes with the speedy, orderly, or fair conduct of the hearing.

(b) Any such sanction, including but not limited to those listed in paragraphs (c), (d), and (e) of this section, shall

reasonably relate to the nature of the failure or misconduct.

(c) When a party fails to comply with an order, including an order for taking a deposition, the production of evidence within the party's control, or a request for admission, the ALJ may—

(1) Draw an inference in favor of the requesting party with regard to the information sought;

(2) In the case of requests for admission, deem each matter of which an admission is requested to be admitted;

(3) Prohibit the party failing to comply with such order from introducing evidence concerning, or otherwise relying upon testimony relating to the information sought; and

(4) Strike any part of the pleadings or other submissions of the party failing to comply with such request.

(d) If a party fails to prosecute or defend an action under this part commenced by service of a notice of hearing, the ALJ may dismiss the action or may issue an initial decision imposing penalties and assessments.

(e) The ALJ may refuse to consider any motion, request, response, brief or other document which is not filed in a timely fashion.

§ 16.30 The hearing and burden of proof.

(a) The ALJ shall conduct a hearing on the record in order to determine whether the defendant is liable for a civil penalty or assessment under § 16.3 and, if so, the appropriate amount of any such civil penalty or assessment considering any aggravating or mitigating factors.

(b) The authority shall have the burden of proving defendant's liability and any aggravating factors by a preponderance of the evidence.

(c) The defendant shall have the burden of proving any affirmative defenses and any mitigating factors by a preponderance of the evidence.

(d) The hearing shall be open to the public unless otherwise ordered by the ALJ for good cause shown.

§ 16.31 Determining the amount of penalties and assessments.

(a) In determining an appropriate amount of civil penalties and assessements, the ALJ and upon appeal, the authority head, should evaluate any circumstances that mitigate or aggravate the violation and should articulate in their opinions the reasons that support the penalties and assessments they impose. Because of the intangible costs of fraud, the expense of investigating such conduct, and the need to deter others who might be similarly tempted, double damages and a significant civil penalty ordinarily should be imposed.

(b) Although not exhaustive, the following factors are among those that may influence the ALJ and the authority head in determining the amount of penalties and assessments to impose with respect to the misconduct (i.e., the false, fictitious, or fraudulent claims or statements) charged in the complaint:

(1) The number of false, fictitious, or fraudulent claims or statements;

(2) The time period over which such claims or statements were made;

(3) The degree of the defendant's culpability with respect to the misconduct;

(4) The amount of money or the value of the property, services, or benefit falsely claimed;

(5) The value of the Government's actual loss as a result of the misconduct, including foreseeable consequential damages and the costs of investigation;

(6) The relationship of the amount imposed as civil penalties to the amount of the Government's loss;

(7) The potential or actual impact of the misconduct upon national defense, public health or safety, or public confidence in the management of Government programs and operations;

(8) Whether the defendant has engaged in a pattern of the same or similar misconduct;

(9) Whether the defendant attempted to conceal the misconduct;

(10) The degree to which the defendant has involved others in the misconduct or in concealing it;

(11) Where the misconduct of employees or agents is imputed to the defendant, the extent to which the defendant's practices fostered or attempted to preclude such misconduct;

(12) Whether the defendant cooperated in or obstructed an investigation of the misconduct;

(13) Whether the defendant assisted in identifying and prosecuting other wrongdoers;

(14) The complexity of the program or transaction, and the degree of the defendant's sophistication with respect to it, including the extent of the defendant's prior participation in the program or in similar transactions;

(15) Whether the defendant has been found, in any criminal, civil, or administrative proceeding to have engaged in similar misconduct or to have dealt dishonestly with the Government of the United States or of a State, directly or indirectly; and

(16) The need to deter the defendant and others from engaging in the same or similar misconduct.

(c) Nothing in this section shall be construed to limit the ALJ or the authority head from considering any other factors that in any given case may mitigate or aggravate the offense for which penalties and assessments are imposed.

§ 16.32 Location of hearing.

(a) The hearing may be held—

(1) In any judicial district of the United States in which the defendant resides or transacts business;

(2) In any judicial district of the United States in which the claim or statement in issue was made; or

(3) In such other place as may be agreed upon by the defendant and the ALJ.

(b) Each party shall have the opportunity to present argument with respect to the location of the hearing.

(c) The hearing shall be held at the place and at the time ordered by the ALJ.

§ 16.33 Witnesses.

(a) Except as provided in paragraph (b) of this section, testimony at the hearing shall be given orally by witnesses under oath or affirmation.

(b) At the discretion of the ALJ, testimony may be admitted in the form of a written statement or deposition. Any such written statement must be provided to all other parties along with the last known address of such witness, in a manner which allows sufficient time for other parties to subpoena such witness for cross-examination at the hearing. Prior written statements of witnesses proposed to testify at the hearing and deposition transcripts shall be exchanged as provided in § 16.22(a).

(c) The ALJ shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to—

(1) Make the interrogation and presentation effective for the ascertainment of the truth,

(2) Avoid needless consumption of time, and

(3) Protect witnesses from harassment or undue embarrassment.

(d) The ALJ shall permit the parties to conduct such cross examination as may be required for a full and true disclosure of the facts.

(e) At the discretion of the ALJ, a witness may be cross-examined on matters relevant to the proceeding without regard to the scope of his or her direct examination. To the extent permited by the ALJ, cross-examination on matters outside the scope of direct examination shall be conducted in the manner of direct examination and may proceed by leading questions only if the witness is a hostile witness, an adverse party, or a witness identified with an adverse party.

(f) Upon motion of any party, the ALJ shall order witnesses excluded so that they cannot hear the testimony of other witnesses. This rule does not authorize exclusion of—

(1) A party who is an individual;

(2) In the case of a party that is not an individual, an officer or employee of the party designated by the party's representative; or

(3) An individual whose presence is shown by a party to be essential to the presentation of its case, including an individual employed by the Government engaged in assisting the representative for the Government.

§ 16.34 Evidence.

(a) The ALJ shall determine the admissibility of evidence.

(b) Except as provided herein, the ALJ shall not be bound by the Federal Rules of Evidence. However, the ALJ may apply the Federal Rules of Evidence where appropriate, *e.g.*, to exclude unreliable evidence.

(c) The ALJ shall exclude irrelevant, immaterial, or incompetent evidence.

(d) Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or by considerations of undue delay or needless presentation of cumulative evidence.

(e) Although relevant, evidence may be excluded if it is privileged under Federal law.

(f) Evidence concerning offers of compromise or settlement shall be inadmissible to the extent provided in Rule 408 of the Federal Rules of Evidence.

(g) The ALJ shall permit the parties to introduce rebuttal witnesses and evidence.

(h) All documents and other evidence offered or taken for the record shall be open to examination by all parties, unless otherwise ordered by the ALJ pursuant to § 16.24.

§ 16.35 The record.

(a) The hearing will be recorded and transcribed. Transcripts may be obtained following the hearing from the ALJ at a cost not to exceed the actual cost of duplication.

(b) The transcript of testimony, exhibits and other evidence admitted at the hearing, and all papers and requests filed in the proceeding constitute the record for the decision by the ALJ and the authority head.

(c) The record may be inspected and copied (upon payment of a reasonable fee) by anyone, unless otherwise ordered by the ALJ pursuant to § 16.24.

§ 16.36 Post-hearing briefs.

The ALJ may require the parties to file post-hearing briefs. The ALJ shall fix the time for filing such briefs, not to exceed 60 days from the date the parties receive the transcript of the hearing or, if applicable, the stipulated record. Such briefs may be accompanied by proposed findings of fact and conclusions of law. The ALJ may permit the parties to file reply briefs.

§ 16.37 Initial decision.

(a) The ALJ shall issue an initial decision, based solely on the record, which shall contain findings of fact, conclusion of law, and the amount of any penalties and assessments imposed.

(b) The findings of fact shall include a finding on each of the following issues:

(1) Whether the claims or statements identified in the complaint, or any portions thereof, violate § 16.3;

(2) If the person is liable for penalties of assessments, the appropriate amount of any such penalties or assessments considering any mitigating or aggravating factors that he or she finds in the case, such as those described in § 16.31.

(c) The ALJ shall promptly serve the initial decision on all parties within 90 days after the time for submission of post-hearing briefs and reply briefs (if permitted) has expired. The ALJ shall at the same time serve all defendants with a statement describing the right of any defendant determined to be liable for a civil penalty or assessment to file a motion for reconsideration with the ALJ or a notice of appeal with the authority head. If the ALJ fails to meet the deadline contained in this paragraph, he or she shall notify the parties of the reason for the delay and shall set a new deadline.

(d) Unless the initial decision of the ALJ is timely appealed to the authority head, or a motion for reconsideration of the initial decision is timely filed, the initial decision shall constitute the final decision of the authority head and shall be final and binding on the parties 30 days after it is issued by the ALJ.

§ 16.38 Reconsideration of initial decision.

(a) Except as provided in paragraph (d) of this section, any party may file a motion for reconsideration of the initial decision within 20 days of receipt of the initial decision. If service was made by mail, receipt will be presumed to be five days from the date of mailing in the absence of contrary proof.

(b) Every such motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Such motion shall be accompanied by a supporting brief.

(c) Responses to such motions shall be allowed only upon request of the ALJ.

(d) No party may file a motion for reconsideration of an initial decision that has been revised in response to a previous motion for reconsideration.

(e) The ALJ may dispose of a motion for reconsideration by denying it or by issuing a revised initial decision.

(f) When a motion for reconsideration is made, the time periods for appeal to the authority head contained in § 16.38, and for finality of the initial decision in § 16.36(d), shall begin on the date the ALJ issues the denial of the motion for reconsideration or a revised initial decision, as appropriate.

§ 16.39 Appeal to authority head.

(a) Any defendant who has filed a timely answer and who is determined in an initial decision to be liable for a civil penalty or assessment may appeal such decision to the authority head by filing a notice of appeal with the authority head in accordance with this section.

(b)(1) No notice of appeal may be filed until the time period for filing a motion for reconsideration under § 16.38 has expired.

(2) If a motion for reconsideration is timely filed, a notice of appeal must be filed within 30 days after the ALJ denies the motion or issues a revised initial decision, whichever applies.

(3) If no motion for reconsideration is timely filed, a notice of appeal must be filed within 30 days after the ALJ issues the initial decision.

(4) The authority head may extend the initial 30 days period for an additional 30 days if the defendant files with the authority head a request for extension within the initial 30 days period and shows good cause.

(c) If the defendant files a timely notice of appeal with the authority head, the ALJ shall forward the notice of appeal and record of the proceeding to the authority head.

(d) A notice of appeal shall be accompanied by a written brief specifying exceptions to the initial decision and reasons supporting the exceptions.

(e) The representative for the agency may file a brief in opposition to exceptions within 30 days of receiving the notice of appeal and accompanying brief.

(f) There is no right to appear personally before the authority head.

(g) There is right to appeal any interlocutory ruling by the ALJ.

(h) In reviewing the initial decision, the authority head shall not consider any objection that was not raised before the ALJ unless a demonstration is made

of extraordinary circumstances causing the failure to raise the objection.

(i) If any party demonstrates to the satisfaction of the authority head, prior to the issuance of the authority head's decision that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at the hearing, the authority head shall remand the matter to the ALJ for consideration of such additional evidence.

(j) The authority head may affirm, reduce, reverse, compromise, remand, or settle any penalty or assessment, determined by the ALJ in any initial decision.

(k) The authority head shall promptly serve each party to the appeal to the ALJ with a copy of the decision of the authority head. At the same time the authority head shall serve the defendant with a statement describing the defendant's right to seek judicial review.

(l) Unless a petition for judicial review is filed as provided in 31 U.S.C. 3805 after a defendant has exhausted all administrative remedies under this part and within 60 days after the date on which the authority head serves the defendant with a copy of the authority head's decision, a determination that a defendant is liable under § 16.3 is final and is not subject to judicial review.

§ 16.40 Stays ordered by the Department of Justice.

If at any time the Attorney General or an Assistant Attorney General designated by the Attorney General transmits to the authority head a written finding that continuation of the administrative process described in this part with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to such claim or statement, the authority head shall stay the process immediately. In such a case, the authority head may order the process resumed only upon receipt of the written authorization of the Attorney General.

§ 16.41 Stay pending appeal.

(a) An initial decision is stayed automatically pending disposition of a motion for reconsideration or of an appeal to the authority head.

(b) No administrative stay is available following a final decision of the authority head.

§ 16.42 Judicial review.

Section 3805 of title 31, United States Code, authorizes judicial review by an appropriate United States District Court of a final decision of the authority head imposing penalties or assessments under this part and specifies the procedures for such review.

§ 16.43 Collection of civil penalties and assessments.

Sections 3806 and 3808(b) of title 31, United States Code, authorize actions for collection of civil penalties and assessments imposed under this part and specify the procedures for such actions.

§ 16.44 Right to administrative offset.

The amount of any penalty or assessment which has become final, or for which a judgment has been entered under § 16.42 or § 16.43, or any amount agreed upon in a compromise or settlement under § 16.46, may be collected by administrative offset under 31 U.S.C. 3716, except that an administrative offset may not be made under this subsection against a refund of an overpayment of Federal taxes, then or later owing by the United States to the defendant.

§ 16.45 Deposit in Treasury of United States.

All amounts collected pursuant to this part shall be deposited as miscellaneous receipts in the Treasury of the United States, except as provided in 31 U.S.C. 3806(g).

§ 16.46 Compromise or settlement.

(a) Parties may make offers of compromise or settlement at any time.

(b) The reviewing official has the exclusive authority to compromise or settle a case under this part at any time after the date on which the reviewing official is permitted to issue a complaint and before the date on which the ALJ issues an initial decision.

(c) The authority head has exclusive authority to compromise or settle a case under this part at any time after the date on which the ALJ issues an initial decision, except during the pendency of any review under § 16.42 or during the pendency of any action to collect penalties and assessments under § 16.43.

(d) The Attorney General has exclusive authority to compromise or settle a case under this part during the pendency of any review under § 16.42 or of any action to recover penalties and assessments under 31 U.S.C. 3806.

(e) The investigating official may recommend settlement terms to the reviewing official, the authority head, or the Attorney General, as appropriate. The reviewing official may recommend settlement terms to the authority head, or the Attorney General, as appropriate.

(f) Any compromise or settlement must be in writing and signed by all parties and their representatives.

§ 16.47 Limitations.

(a) The notice of hearing with respect to a claim or statement must be served in the manner specified in § 16.8 within 6 years after the date on which such claim or statement is made.

(b) If the defendant fails to file a timely answer, service of a notice under § 16.10(b) shall be deemed a notice of hearing for purposes of this section.

(c) The time limits of this statute of limitations may be extended by agreement of the parties.

M. Peter McPherson,

Acting Secretary of the Treasury, United States Department of the Treasury.

[FR Doc. 87-21451 Filed 9-16-87; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Boston, MA Regulation 87-39]

Security Zone Regulation; Boston Harbor, Boston, MA

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a security zone in Boston Harbor around the passenger vessels QUEEN ELIZABETH 2 and STARSHIP OCEANIC while they are moored at Pier 5 (Commonwealth Pier) in South Boston, MA. The vessels will be taking part in "DEC World", an industry exposition sponsored by Digital Equipment Corporation at the World Trade Center on Pier 5. The vessels are to be used throughout the exposition as hotel and conference space for guests and employees of Digital. The security zone extends from the end of Pier 5 for one-hundred (100) yards in all directions over the water and includes the areas between Pier 4 and Pier 6 in South Boston, MA. This zone is needed to safeguard the passenger vessels QUEEN ELIZABETH 2 and STARSHIP OCEANIC against destruction from sabotage or other subversive acts, accidents, or other causes of a similar nature. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective on September 6, 1987 at 2:00 PM local time. It terminates on September 18, 1987 at 6:00 PM local time unless sooner terminated by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: Lt K. E. Dale, (617) 565–9000.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent damage to or destruction of the vessels and injury to parties involved in the "DEC World" exposition.

Drafting Information

The drafters of this regulation are Lt K.E. Dale, project officer for the Captain of the Port, and Commander R.A. Brunell, project attorney, First Coast Guard District Legal Office.

Discussion of Regulation

The incident requiring this regulation will begin on September 6, 1987 with the arrival of the passenger vessel STARSHIP OCEANIC at Pier 5 in South Boston, will continue throughout the duration of the "DEC World" exposition, and will terminate on September 18, 1987 with the departure of the pasenger vessels STARSHIP OCEANIC and QUEEN ELIZABETH 2. The basis of this action is to prevent damage to or destruction of these vessels or injury to persons taking part in "DEC World". This regulation is issued pursuant to 50 U.S.C. 191 as set out in the authority citation for all of Part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, Subpart D of Part 165 of Title 33, Code of Federal Regulations, is amended 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. A new § 165.TO139 is added to read as follows:

§ 165.TO139 Security Zone: Boston Harbor, Boston, MA.

(a) *Location.* The following area is a security zone around the passenger vessels STARSHIP OCEANIC and QUEEN ELIZABETH 2 while they are moored at Pier 5 (Commonwealth Pier) in South Boston, MA. The zone extends one-hundred (100) yards in all directions over the water from the end of Pier 5 and includes the areas between Piers 4 and 6.

(b) *Effective date.* This regulation becomes effective on September 6, 1987 at 2:00 PM local time. It terminates on September 18, 1987 at 6:00 PM local time unless sooner terminated by the Captain of the Port.

(c) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port. Section 165.33 also contains other general requirements.

Dated: September 3, 1987.

R. L. Anderson,

Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. 87–21527 Filed 9–16–87; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–1–FRL–3263–1]

Approval and Promulgation of Implementation Plans; New Hampshire; Particulate Emission Standards and Permit Fees

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving revisions to two regulations of the New Hampshire State Implementation Plan (SIP). Revisions to one regulation require more stringent particulate emission standards for fuel burning devices installed on or after January 1, 1985 and the use of continuous emission monitoring (CEM) for fossil fuel-fired steam generators. Revisions to the other regulation increase permit fees for the review of new or modified devices and the renewal fees for permits to operate. The intended effect of this action is to approve these amendments as revisions to the New Hampshire SIP under section 110 of the Clean Air Act.

EFFECTIVE DATE: This rule will become effective on October 19, 1987.

ADDRESSES: Copies of the submittal are available for public inspection at Room 2313, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, EPA Library, 401 M Street SW., Washington, DC 20460; and the New Hampshire Department of Environmental Services, Division of Environmental Services, Air Resources Division, 64 North Main Street, Caller Box 2033, Concord, New Hampshire 03302–2033.

FOR FURTHER INFORMATION CONTACT: Lynne A. Hamjian, (617) 565–3246; FTS 835–3246.

SUPPLEMENTARY INFORMATION: On August 14, 1986 (51 FR 29116), EPA published a Notice of Proposed Rulemaking (NPR) for the State of New Hampshire. The NPR proposed to approve revisions to Chapter Air 700, "Permit Fee System," and Chapter Air 1200, "Prevention, Abatement, and Control of Stationary Source Air Pollution," submitted on April 26, 1985 by the New Hampshire Air Resources Division (NHARD). The NPR also stated that the NHARD submitted a letter to EPA on January 20, 1986 stating that Part Air 1202.10 of Chapter Air 1200 entitled, "Continuous Emission Monitoring (CEM) Systems," applies to all fossil-fuel fired steam generators as specified in 40 CFR Part 51, Appendix P. The letter is being incorporated by reference into the New Hampshire SIP.

A description of the revision and EPA's rationale for approving it were provided in the NPR and will not be restated here. No public comments were received on the NPR.

Between publication of the NPR and today's final rulemaking notice (FRN), EPA promulgated a New Source Performance Standard (NSPS) to control particulate matter (PM) and nitrogen oxides (NO_x) from Industrial-Commercial-Institutional Steam Generating Units (40 CFR Part 60 Subpart Db). Some of the PM emission limits in Part Air 1202 of New Hampshire's revised regulations are less stringent than this newly promulgated NSPS. On May 12, 1987, the NHARD submitted a letter to EPA stating that it fully intends to implement the applicable emission limits required by Subpart Db. The NHARD has accepted delegation of this NSPS on January 29, 1987. Additionally, Part Air 608, "Minimum Requirements for Permits" of New Hampshire's SIP requires that where NSPS limits apply they supersede less stringent emission limitations in other regulations. EPA is incorporating the May 12, 1987 letter by reference into New Hampshire's SIP.

This action also makes a correction to a Table entitled, "New Hampshire TSP," codified at 40 CFR 81.330. The Table summarizes the New Hampshire attainment status for TSP. Metropolitan Manchester should be listed as "Does not meet secondary standards" and should *not* be listed as "Better than national standards." The current version

of the Table contains a typographical error as it indicates that Metropolitan Manchester is classified as both attainment and nonattainment. This action only corrects this Table and is not a redesignation action.

Final Action

EPA is approving SIP revisions to Chapter Air 700 and Chapter Air 1200 submitted April 26, 1985, January 20, 1986, and May 12, 1987 from the New Hampshire Air Resources Commission. The revisions increase permit fees, make the particulate matter emission standards for fuel burning devices more stringent, state the applicability of requirements for continuous emission monitoring systems and confirm that applicable NSPS limits supersede less stringent emission limits in Chapter Air 1200. EPA is also correcting a typographical error in a Table codified at 40 CFR 81.330.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 16, 1987. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Particulate matter and Reporting and Recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the State of New Hampshire was approved by the Director of the **Federal Register** on July 1, 1982.

Date: September 11, 1987.

Lee M. Thomas,

Administrator.

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

PART 52—[AMENDED]

Subpart EE—New Hampshire

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1520, is amended by adding paragraph (c)(37) to read as follows:

§ 52.1520 Identification of plan.

* * * * *

(c) * * *

(37) Revisions to the State Implementation Plan submitted on April 26, 1985, January 20, 1986 and May 12, 1987 by the Air Resources Commission.

(i) Incorporation by Reference:

(A) Letter dated April 26, 1985 from the New Hampshire Air Resources Commission submitting revisions to the State Implementation Plan for EPA approval.

(B) Revisions to New Hampshire Code of Administrative Rules, Part Air 704.01, "Permit Review Fee for Large Fuel Burning Devices," Part Air 704.02, "Permit Review Fee for All Other Devices," Part Air 706.01, "Renewal Review Fee For Large Fuel Burning Devices," Part Air 706.02, "Renewal Review Fee For All Other Devices," Part Air 1202, "Fuel Burning Devices," effective on December 27, 1984.

(C) Certification from the State of New Hampshire dated April 26, 1985.

(D) Letter from the State of New Hampshire dated January 20, 1986.

(E) Letter from the State of New Hampshire dated May 12, 1987.

3. Section 81.330 is amended by revising the TSP table to read as follows:

§ 81.330 New Hampshire.

NEW HAMPSHIRE—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Metropolitan Keene				X
Metropolitan Manchester		X		X
Remainder of New Hampshire portion of So. N.H.M.V. AQCR 121.				X
Central NH. Intrastate AQCR 149				X
Metropolitan Berlin	[1]X			X
Remainder of NH. portion of Androscoggin Valley interstate AQCR 107.				X

[1] EPA designation replaces State designation.

* * * * *

4. In Section 52.1525 Table 51.1525 is amended by adding in numerical order the entries below. In the chart below the date approved by EPA and the **Federal Register** citation will be the publication date and citation of this document.

§ 52.1525 EPA-approved New Hampshire State regulations.

TABLE 52.1525 EPA APPROVED RULES AND REGULATIONS [1]—NEW HAMPSHIRE

Title/subject	State citation chapter	Date adopted by State	Date approved by EPA	Federal Register citation	52.1520	Comments
*	*	*	*	*		
Permit fee system	CH air 700	12–20–84	9–17–87	52 FR 35082	(c)37	Part Air, 704.01, 704.02 706.01, and 706.02
*	*	*	*	*		
Prevention, abatement and control of stationary source air pollution.	CH air 1200	12–20–84	9–17–87	52 FR 35082	(c)37	Part Air 1202.

[1] These regulations are applicable statewide unless otherwise noted in the COMMENTS section.

[FR Doc. 87–21479 Filed 9–16–87; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 60

[A-9-FRL-3262-3]

Delegation of New Source Performance Standards (NSPS); State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS authority to the California Air Resources Board (CARB) on behalf of the Sacramento County Air Pollution Control District (SCAPCD). This action is necessary to bring the NSPS program delegation up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS categories from EPA to State and local governments.

EFFECTIVE DATE: August 12, 1987.

ADDRESS: Sacramento County Air Pollution Control District, 9323 Tech Center Drive, Suite 800, Sacramento, CA 95827.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, State Implementation Plan Section (A-2-3), Air Programs Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8066, FTS 454-8066.

SUPPLEMENTARY INFORMATION: The CARB has requested authority for delegation of certain NSPS categories on behalf of the SCAPCD. Delegation of authority was granted by a letter dated August 12, 1987 and is reproduced in its entirety as follows:

Mr. James D. Boyd,
Executive Officer, California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, CA 95812

Dear Mr. Boyd: In response to your request of July 24, 1987, I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) on behalf of the Sacramento County Air Pollution Control District (SCAPCD). We have reviewed your request for delegation and have found the SCAPCD's programs and procedures to be acceptable. The delegation includes authority for the following source categories:

NSPS	40 CFR Part 60 Subpart
Petroleum Dry Cleaners	JJJ
Nonmetallic Mineral Processing Plants.	OOO

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 60, including use of EPA's test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,
Regional Administrator.

cc: Sacramento County Air Pollution Control District
Terry McGuire,
Technical Support Division, CARB.

With respect to the areas under the jurisdiction of the SCAPCD, all reports, applications, submittals, and other communications pertaining to the above listed NSPS source categories should be directed to the SCAPCD at the address shown in the **ADDRESS** section of this notice.

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

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of sections 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: September 8, 1987.

Charles W. Murray, Jr.,
Acting Regional Administrator.

[FR Doc. 87-21485 Filed 9-16-87; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 60

[A-9-FRL-3262-8]

Delegation of New Source Performance Standards (NSPS); State of Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS authority to the Nevada Department of Conservation and Natural Resources (NDCNR). This action is necessary to bring the NSPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS categories from EPA to State and local governments.

EFFECTIVE DATE: May 21, 1987.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, State Implementation Plan Section (A-2-3), Air Programs Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8066, FTS 454-8066.

SUPPLEMENTARY INFORMATION: The NDCNR has requested authority for delegation of certain NSPS categories. Delegation of authority was granted by a letter dated May 21, 1987 and is reproduced in its entirety as follows.

Mr. Lowell H. Shifley, Jr., P.E.,
Air Quality Officer, Division of Environmental Protection, Nevada Department of Conservation and Natural Resources, 201 South Fall Street, Carson, City, NV 89710.

Dear Mr. Shifley: In response to your request of May 8, 1987, I am pleased to inform you that we are delegating to your agency authority to implement and enforce the New Source Performance Standard (NSPS) category in 40 CFR Part 60: Subpart Kb, Standards of Performance for Volatile Organic Liquid Storage Vessels (including Petroleum Liquid Storage Vessels) for which Construction, Reconstruction, or Modification Commenced after July 23, 1984. We have reviewed your request for delegation and have found your present programs and procedures to be acceptable.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 60, including use of EPA approved test methods and procedures.

The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,
Regional Administrator.

With respect to the areas under the jurisdiction of the NDCNR, all reports, applications, submittals, and other communications pertaining to the above listed NSPS source categories should be directed to the NDCNR at the address shown in the letter of delegation.

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

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: September 8, 1987.

Charles W. Murray, Jr.

Acting Regional Administrator.

[FR Doc. 87-21490 Filed 9-16-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 60 and 61

[A-9-FRL-3261-7]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); State of Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS and NESHAPS authority to the Maricopa County Department of Health Services (MCDHS). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS and NESHAPS categories from EPA to State and local governments.

EFFECTIVE DATE: April 6, 1987.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, State Implementation Plan Section (A-2-3), Air Programs Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8066, FTS 454-8066.

SUPPLEMENTARY INFORMATION: The MCDHS has requested authority for delegation of certain NSPS and NESHAPS categories. Delegation of authority was granted by a letter dated April 6, 1987 and is reproduced in its entirety as follows:

Mr. Robert W. Evans,
Chief, Bureau of Air Pollution Control, Maricopa County Department of Health Services, 1845 East Roosevelt Street, Phoenix, AZ 85006

Dear Mr. Evans: In response to your request of March 25, 1987, I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS). We have reviewed your request for delegation and have found your programs and procedures to be acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR Part 60 Subpart
Industrial, Commercial, Institutional Steam Generating Units.	Db
Secondary Emissions from Basic Oxygen Process Steelmaking Facilities (C. after 1/20/83).	Na
Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.	KKK
Onshore Natural Gas Processing: SO_2 Emissions.	LLL
Nonmetallic Mineral Processing Plants.	OOO
NESHAPS	**40 CFR Part 61 Subpart**
Inorganic Arsenic Emissions from Glass Manufacturing Plants.	N
Inorganic Arsenic Emissions from Primary Copper Smelters.	O
Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities.	P

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61, including use of EPA's test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,

Regional Administrator.

With respect to the areas under the jurisdiction of the MCDHS, all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAPS source categories should be directed to the MCDHS at the address shown in the letter of delegation.

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

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of sections 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: September 8, 1987.

Charles W. Murray Jr.,

Acting Regional Administrator.

[FR Doc. 87-21480 Filed 9-16-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 60 and 61

[A-9-FRL-3261-8]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); State of Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS and NESHAPS authority to the Pima County Health Department (PCHD). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS and NESHAPS categories from EPA to State and local governments.

EFFECTIVE DATE: August 31, 1987.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, State Implementation Plan Section (A-2-3), Air Programs Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8066, FTS 454-8066.

SUPPLEMENTARY INFORMATION: The PCHD has requested authority for delegation of certain NSPS and NESHAPS categories. Delegation of authority was granted by a letter dated August 31, 1987 and is reproduced in its entirety as follows:

Patricia A. Nolan, M.D.,
Director, Pima County Health Department, 150 West Congress Street, Tucson, AZ 85701-1317

Dear Dr. Nolan: In response to your request of August 13, 1987, I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS). We have reviewed your request

for delegation and have found your present programs and procedures to be acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR Part 60 Subpart
Industrial Commercial Institutional Steam Generating Units.	Db
Secondary Emissions from Basic Oxygen Process Steelmaking Facilities (C. after 1/20/83).	Na
Onshore Natural Gas Processing: SO_2 Emissions.	LLL
Nonmetallic Mineral Processing Plants.	OOO
NESHAPS	**40 CFR Part 61 Subpart**
Inorganic Arsenic Emissions from Glass Manufacturing Plants.	N
Inorganic Arsenic Emissions from Primary Copper Smelters.	O
Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities.	P

In addition, we are redelegating the following NSPS and NESHAPS categories since your revised programs and procedures are acceptable:

NSPS	40 CFR Part 60 Subpart
General Provisions	A
Fossil-Fuel Fired Steam Generators	D
Electric Utility Steam Generators	Da
Incinerators	E
Portland Cement Plants	F
Nitric Acid Plants	G
Sulfuric Acid Plants	H
Asphalt Concrete Plants	I
Petroleum Refineries	J
Storage Vessels for Petroleum Liquids.	K
Petroleum Storage Vessels	Ka
Secondary Lead Smelters	L
Secondary Brass & Bronze Ingot Production Plants.	M
Iron and Steel Plants (BOPF)	N
Sewage Treatment Plants	O
Primary Copper Smelters	P
Primary Zinc Smelters	Q
Primary Lead Smelters	R
Primary Aluminum Reduction plants	S
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants.	T
Phosphate Fertilizer Industry: Superphosphoric Acid Plants.	U
Phosphate Fertilizer Industry: Diammonium phosphate Plants.	V
Phosphate Fertilizer Industry: Triple Superphosphate Plants.	W
Phosphate Fertilizer Industry: Granular Triple Superphosphate.	X
Coal Preparation Plants	Y
Ferroalloy Production Facilities	Z
Iron and Steel Plants (Electric Arc Furnaces).	AA
Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels C. after 8/17/83.	AAa
Kraft Pulp Mills	BB
Glass Manufacturing Plants	CC
Grain Elevators	DD
Surface Coating of Metal Furniture	EE
Stationary Gas Turbines	GG
Lime Manufacturing Plants	HH
Lead-Acid Battery Manufacturing Plants.	KK
Automobile & Light-Duty Truck Surface Coating Operations.	MM
Phosphate Rock Plants	NN
Ammonium Sulfate	PP
Graphic Arts Industry: Publication Rotogravure Printing.	QQ
Pressure Sensitive Tape & Label Surface Coating Operations.	RR
Industrial Surface Coating: Large Appliances.	SS
Metal Coil Surface Coating	TT
Asphalt Processing and Asphalt Roofing Manufacture.	UU
Synthetic Organic Chemical Manufacturing Industry: Equipment Leaks of VOC.	VV
Beverage Can Surface Coating Industry.	WW
Bulk Gasoline Terminals	XX
Flexible Vinyl and Urethane Coating and Printing.	FFF
Equipment Leaks of VOC, Petroleum Refineries and Synthetic Organic Chemical Manufacturing Industry.	GGG
Synthetic Fiber Production Facilities	HHH
Petroleum Dry Cleaners	JJJ
Equipment Leaks of VOC, Petroleum Refineries and Synthetic Organic Chemical Manufacturing Industry.	KKK
Wool Fiberglass Insulation Manufacturing Plants.	PPP
NESHAPS	**40 CFR Part 61 Subpart**
General Provisions	A
Beryllium	C
Beryllium Rocket Motor Firing	D
Mercury	E
Vinyl Chloride	F
Equipment Leaks (Fugitive Emission Sources) of Benzene.	J
Asbestos	M
Equipment Leaks (Fugitive Emission Sources).	V

EPA is not delegating Radionuclides under the Clean Air Act (NESHAPS, Subpart B, H, I, and K) until delegation procedures and requirements are developed.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61, including use of EPA's test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,

Acting Regional Administrator.

With respect to the areas under the jurisdiction of the PCHD, all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAPS source categories should be directed to the PCHD at the address shown in the letter of delegation.

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

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of sections 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: September 8, 1987.

Charles W. Murray, Jr.,

Acting Regional Administrator.

[FR Doc. 87-21481 Filed 9-16-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 60 and 61

[A-9-FRL-3262-1]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS and NESHAPS authority to the California Air Resources Board (CARB) on behalf of the Mendocino County Air Pollution Control District (MCAPCD). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary

program responsibility for the affected NSPS and NESHAPS categories from EPA to State and local governments.

EFFECTIVE DATE: April 6, 1987.

ADDRESS: Mendocino County Air Pollution Control District, Courthouse Square, Ukiah, CA 95482.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, State Implementation Plan Section (A-2-3), Air Programs Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8066, FTS 454-8066.

SUPPLEMENTARY INFORMATION: The CARB has requested authority for delegation of certain NSPS and NESHAPS categories on behalf of the MCAPCD. Delegation of authority was granted by a letter dated April 6, 1987 and is reproduced in its entirety as follows:

Mr. James D. Boyd,
Executive Officer, California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, California 95812

Dear Mr. Boyd: In response to your request of March 25, 1987, I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) on behalf of the Mendocino County Air Pollution Control District (MCAPCD). We have reviewed your request for delegation and have found the MCAPCD's programs and procedures to be acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR Part 60 Subpart
Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After 8-17-83.	AAa
Petroleum Dry Cleaners	JJJ
Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.	KKK
Onshore Natural Gas Processing: SO_2 Emissions.	LLL
Nonmetallic Mineral Processing Plants.	OOO
Wool Fiberglass Insulation Manufacturing.	PPP

In addition, we are redelegating the following NSPS and National Emission Standards for Hazardous Air Pollutants (NESHAPS) categories since the MCAPCD's revised programs and procedures are acceptable:

NSPS	40 CFR Part 60 Subpart
General Provisions	A
Fossil-Fuel Fired Steam Generators	D
Electric Utility Steam Generators	Da
Incinerators	E
Portland Cement Plants	F
Nitric Acid Plants	G
Sulfuric Acid Plants	H
Asphalt Concrete Plants	I
Petroleum Refineries	J
Storage Vessels for Petroleum Liquids.	K
Petroleum Storage Vessels	Ka
Secondary Lead Smelters	L
Secondary Brass & Bronze Ingot Production Plants.	M
Primary Emissions from Basic Oxygen Process Furnaces (C. after 6/11/73).	N
Sewage Treatment Plants	O
Primary Copper Smelters	P
Primary Zinc Smelters	Q
Primary Lead Smelters	R
Primary Aluminum Reduction Plants	S
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants.	T
Phosphate Fertilizer Industry: Superphosphoric Acid Plants.	U
Phosphate Fertilizer Industry: Diammonium Phosphate Plants.	V
Phosphate Fertilizer Industry: Triple Superphosphate Plants.	W
Phosphate Fertilizer Industry: Granular Triple Superphosphate.	X
Coal Preparation Plants	Y
Ferroalloy Production Facilities	Z
Iron and Steel Plants (Electric Arc Furnaces).	AA
Kraft Pulp Mills	BB
Glass Manufacturing Plants	CC
Grain Elevators	DD
Surface Coating of Metal Furniture	EE
Stationary Gas Turbines	GG
Lime Manufacturing Plants	HH
Lead-Acid Battery Manufacturing Plants.	KK
Automobile & Light-Duty Truck Surface Coating Operations.	MM
Phosphate Rock Plants	NN
Ammonium Sulfate	PP
Graphic Arts Industry: Publication Rotogravure Printing.	QQ
Pressure Sensitive Tape and Label Surface Coating Operations.	RR
Industrial Surface Coating: Large Appliances.	SS
Metal Coil Surface Coating	TT
Asphalt Processing and Asphalt Roofing Manufacture.	UU
Synthetic Organic Chemical Manufacturing Industry: Equipment Leaks of VOC.	VV
Beverage Can Surface Coating	WW
Flexible Vinyl and Urethane Coating and Printing.	FFF
Equipment Leaks of VOC, Petroleum Refineries and Synthetic Organic Chemical Manufacturing Industry.	GGG
Synthetic Fiber Production Facilities	HHH

NESHAPS	40 CFR Part 61 Subpart
General Provisions	A
Beryllium	C
Beryllium Rocket Motor Fixing	D
Mercury	E
Vinyl Chloride	F
Equipment Leaks (Fugitive Emission Sources) of Benzene.	J
Asbestos	M
Equipment Leaks (Fugitive Emission Sources).	V

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61, including use of EPA's test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,
Regional Administrator.

With respect to the areas under the jurisdiction of the MCAPCD, all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAPS source categories should be directed to the MCAPCD at the address shown in the **ADDRESS** section of this notice.

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

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of sections 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: September 8, 1987.

Charles W. Murray, Jr.,
Acting Regional Administrator.

[FR Doc. 87-21483 Filed 9-16-87; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Parts 60 and 61

[A-9-FRL-3262.2]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS and NESHAPS authority to the California Air Resources Board (CARB) on behalf of the Monterey Bay Unified Air Pollution Control District (MBUAPCD). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS and NESHAPS categories from EPA to State and local governments.

EFFECTIVE DATE: May 8, 1987.

ADDRESS: Monterey Bay Unified Air Pollution Control District, 1164 Monroe Street, Suite 10, Salinas, CA 93906.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, State Implementation Plan Section (A-2-3), Air Programs Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8066, FTS 454-8066.

SUPPLEMENTARY INFORMATION: The CARB has requested authority for delegation of certain NSPS and NESHAPS categories on behalf of the MBUAPCD. Delegation of authority was granted by a letter dated May 8, 1987 and is reproduced in its entirety as follows:

Mr. James D. Boyd,
Executive Officer, California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, CA 95812

Dear Mr. Boyd: In response to your request of April 17, 1987, I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) on behalf of the Monterey Bay Unified Air Pollution Control District (MBUAPCD). We have reviewed your request for delegation and have found the MBUAPCD's programs and procedures to be acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR Part 60 Subpart
Emission Guidelines and Compliance Times.	C
Electric Utility Steam Generators	Da
Nitric Acid Plants	G
Sulfuric Acid Plants	H
Petroleum Refineries	J
Petroleum Storage Vessels	Ka
Secondary Lead Smelters	L
Secondary Brass & Bronze Ingot Production Plants.	M
Primary Emissions from Basic Oxygen Process Furnaces (C. after 6/11/73).	N
Secondary Emissions from Basic Oxygen Process Steelmaking Facilities (C. after 1/20/83).	Na
Sewage Treatment Plants	O
Primary Copper Smelters	P
Primary Zinc Smelters	Q
Primary Lead Smelters	R
Primary Aluminum Reduction Plants	S
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants.	T
Phosphate Fertilizer Industry: Superphosphoric Acid Plants.	U
Phosphate Fertilizer Industry: Diammonium Phosphate Plants.	V
Phosphate Fertilizer Industry: Triple Superphosphate Plants.	W
Phosphate Fertilizer Industry: Granular Triple Superphosphate.	X
Coal Preparation Plants	Y
Ferroalloy Production Facilities	Z
Iron and Steel Plants (Electric Arc Furnaces).	AA
Steel Plants: Electric Arc Furnances and Argon-Oxygen Decarburization Vessels Constructed After 8-17-83.	AAa
Kraft Pulp Mills	BB
Glass Manufacturing Plants	CC
Grain Elevators	DD
Surface Coating of Metal Furniture	EE
Stationary Gas Turbines	GG
Lime Manufacturing Plants	HH
Lead-Acid Battery Manufacturing Plants.	KK
Metallic Mineral Processing Plants	LL
Automobile & Light-Duty Truck Surface Coating Operations.	MM
Phosphate Rock Plants	NN
Ammonium Sulfate	PP
Pressure Sensitive Tape and Label Surface Coating Operations.	RR
Industrial Surface Coating: Large Appliances.	SS
Metal Coil Surface Coating	TT
Asphalt Processing and Asphalt Roofing Manufacture.	UU
Synthetic Organic Chemical Manufacturing Industry: Equipment Leaks of VOC.	VV
Beverage Can Surface Coating Industry.	WW
Flexible Vinyl and Urethane Coating and Printing.	FFF
Equipment Leaks of VOC, Petroleum Refineries and Synthetic Organic Chemical Manufacturing Industry.	GGG
Synthetic Fiber Production Facilities	HHH
Petroleum Dry Cleaners	JJJ
Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.	KKK
Onshore Natural Gas Processing: SO_2 Emissions.	LLL
Nonmetallic Mineral Processiang Plants.	OOO
Wool Fiberglass Insulation Manufacturing.	PPP
Appendix A	
Appendix B	

NESHAPS	40 CFR Part 61 Subpart
Vinyl Chloride	F
Equipment Leaks (Fugitive Emission Sources) of Benzene.	J
Asbestos	M
Inorganic Arsenic Emissions from Glass Manufacturing Plants.	N
Inorganic Arsenic Emissions from Primary Copper Smelters.	0
Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities.	P
Equipment Leaks (Fugitive Emission Sources).	V
Appendix A	
Appendix B	
Appendix C	

In addition, we are redelegating the following NSPS and NESHAPS categories since the MBUAPCD's revised programs and procedures are acceptable:

NSPS	40 CFR Part 60 Subpart
General Provisions	A
Fossil-Fuel Fired Steam Generators	D
Incinerators	E
Portland Cement Plants	F
Asphalt Concrete Plants	I
Storage Vessels for Petroleum Liquids.	K
Graphic Arts Industry: Publication Rotogravure Printing.	QQ

NESHAPS	40 CFR Part 61 Subpart
General Provisions	A
Beryllium	C
Beryllium Rocket Motor Firing	D
Mercury	E

Acceptance of this delegation constitutes your agreement to follow all applicable

provisions of 40 CFR Parts 60 and 61, including use of EPA's test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,

Regional Administrator.

With respect to the areas under the jurisdiction of the MBUAPCD, all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAPS source categories should be directed to the MBUAPCD at the address shown in the **ADDRESS** section of this notice.

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

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of Sections 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: September 8, 1987.

Charles W. Murray, Jr.,

Acting Regional Administrator.

[FR Doc. 87-21484 Filed 9-16-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 60 and 61

[A-9-FRL-3262-4]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS and NESHAPS authority to the California Air Resources Board (CARB) on behalf of the San Diego County Air Pollution Control District (SDCAPCD). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS and NESHAPS categories from EPA to State and local governments.

EFFECTIVE DATE: May 21, 1987.

ADDRESS: San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, State Implementation Plan Section (A-2-3), Air Programs Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8066, FTS 454-8066.

SUPPLEMENTARY INFORMATION: The CARB has requested authority for delegation of certain NSPS and NESHAPS categories on behalf of the SDCAPCD. Delegation of authority was granted by a letter dated May 21, 1987 and is reproduced in its entirety as follows:

Mr. James D. Boyd,

Executive Officer, California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, CA 95812

Dear Mr. Boyd: In response to your request of May 12, 1987, I am pleased to inform you that we are redelegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) on behalf of the San Diego County Air Pollution Control District (SDCAPCD). We have reviewed your request for redelegation and have found the SDCAPCD's programs and procedures to be acceptable. This redelegation includes authority for the following source categories:

NSPS	40 CFR Part 60 Subpart
General Provisions	A
Asphalt Concrete Plants	I
Sewage Treatment Plants	O
NESHAPS	**40 CFR Part 61 Subpart**
General Provisions	A

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61 including use of EPA's test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,

Regional Administrator.

With respect to the areas under the jurisdiction of the SDCAPCD, all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAPS source categories should be directed to the SDCAPCD at the address shown in the **ADDRESS** section of this notice.

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

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of sections 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: September 8, 1987.

Charles W. Murray, Jr.,

Acting Regional Administrator.

[FR Doc. 87-21486 Filed 9-16-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 60 and 61

[A-9-FRL-3262-5]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS and NESHAPS authority to the California Air Resources Board (CARB) on behalf of the San Joaquin County Air Pollution Control District (SJCAPCD). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS and NESHAPS categories from EPA to State and local governments.

EFFECTIVE DATE: March 30, 1987.

ADDRESS: San Joaquin County Air Pollution Control District, 1601 East Hazelton Avenue, Stockton, CA 95201.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, State Implementation Section, Air Programs Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8066, FTS 454-8066.

SUPPLEMENTARY INFORMATION: The CARB has requested authority for delegation of certain NSPS and

NESHAPS categories on behalf of the SJCAPCD. Delegation of authority was granted by a letter dated March 30, 1987 and is reproduced in its entirety as follows:

Mr. James D. Boyd,
Executive Officer, California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, CA 95812

Dear Mr. Boyd: In response to your request of March 17, 1987, I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) on behalf of the San Joaquin County Air Pollution Control District (SJCAPCD). We have reviewed your request for delegation and have found the SJCAPCD's programs and procedures to be acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR Part 60 Subpart
Secondary Emissions from Basic Oxygen Process Steelmaking Facilities (C. after 1/20/83).	Na
Steel Plants: Electric Arc Furnances and Argon-Oxygen Decarburization Vessels Constructed After 8-17-83.	AAa
Metallic Mineral Processing Plants	LL
Synthetic Organic Chemical Manufacturing Industry: Equipment Leaks of VOC.	VV
Beverage Can Surface Coating Industry.	WW
Flexible Vinyl and Urethane Coating and Printing.	FFF
Equipment Leaks of VOC, Petroleum Refineries and Synthetic Organic Chemical Manufacturing Industry.	GGG
Synthetic Fiber Production Facilities	HHH
Petroleum Dry Cleaners	JJJ
Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.	KKK
Onshore Natural Gas Processing: SO_2 Emissions.	LLL
Nonmetallic Mineral Processing Plants.	OOO
Wool Fiberglass Insulation Manufacturing.	PPP

NESHAPS	40 CFR Part 61 Subpart
Equipment Leaks (Fugitive Emission Sources) of Benzene.	J
Asbestos	M
Inorganic Arsenic Emissions from Glass Manufacturing Plants.	N
Inorganic Arsenic Emissions from Primary Copper Smelters.	O
Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities.	P
Equipment Leaks (Fugitive Emission Sources).	V

In addition, we are redelegating the following NSPS and NESHAPS categories since the SJCAPCD's revised programs and procedures are acceptable:

NSPS	40 CFR Part 60 Subpart
General Provisions	A
Fossil-Fuel Fired Steam Generators	D
Electric Utility Steam Generators	Da
Incinerators	E
Portland Cement Plants	F
Nitric Acid Plants	G
Sulfuric Acid Plants	H
Asphalt Concrete Plants	I
Petroleum Refineries	J
Storage Vessels for Petroleum Liquids.	K
Petroleum Storage Vessels	Ka
Secondary Lead Smelters	L
Secondary Brass & Bronze Ingot Production Plants.	M
Primary Emissions from Basic Oxygen Process Furnaces (C. after 6/11/73).	N
Sewage Treatment Plants	O
Primary Copper Smelters	P
Primary Zinc Smelters	Q
Primary Lead Smelters	R
Primary Aluminum Reduction Plants	S
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants.	T
Phosphate Fertilizer Industry: Superphosphoric Acid Plants.	U
Phosphate Fertilizer Industry: Diammonium Phosphate Plants.	V
Phosphate Fertilizer Industry: Triple Superphosphate Plants.	W
Phosphate Fertilizer Industry: Granular Triple Superphosphate.	X
Coal Preparation Plants	Y
Ferroalloy Production Facilities	Z
Iron and Steel Plants (Electric Arc Furnaces).	AA
Kraft Pulp Mills	BB
Glass Manufacturing Plants	CC
Grain Elevators	DD
Surface Coating of Metal Furniture	EE
Stationary Gas Turbines	GG
Lime Manufacturing Plants	HH
Lead-Acid Battery Manufacturing Plants.	KK
Automobile & Light-Duty Truck Surface Coating Operations.	MM
Phosphate Rock Plants	NN
Ammonium Sulfate	PP
Graphic Arts Industry: Publication Rotogravure Printing.	QQ
Pressure Sensitive Tape and Label Surface Coating Operations.	RR
Industrial Surface Coating: Large Appliances.	SS
Metal Coil Surface Coating	TT
Asphalt Processing and Asphalt Roofing Manufacture.	UU

NESHAPS	40 CFR Part 61 Subpart
General Provisions	A
Beryllium	C
Beryllium Rocket Motor Firing	D
Mercury	E
Vinyl Chloride	F

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61, including use of EPA's test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,

Regional Administrator.

CC: San Joaquin County Air Pollution Control District

With respect to the areas under the jurisdiction of the SJCAPCD, all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAPS source categories should be directed to the SJCAPCD at the address shown in the **ADDRESS** section of this notice.

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

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of sections 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: September 8, 1987.

Charles W. Murray, Jr.,

Acting Regional Administrator.

[FR Doc. 87-21487 Filed 9-16-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 60 and 61

[A-9-FRL-3262-6]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS and NESHAPS authority to the California Air Resources Board (CARB) on behalf of the Santa Barbara County Air Pollution Control District (SBCAPCD). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS and NESHAPS categories from EPA to State and local governments.

EFFECTIVE DATE: August 6, 1987.

ADDRESS: Santa Barbara County Air Pollution Control District, 315 Camino del Remedio, Santa Barbara, CA 93110.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, State Implementation Plan Section (A-2-3), Air Programs Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8066, FTS 454-8066.

SUPPLEMENTARY INFORMATION: The CARB has requested authority for delegation of certain NSPS and NESHAPS categories on behalf of the SBCAPCD. Delegation of authority was granted by a letter dated August 6, 1987 and is reproduced in its entirety as follows:

Mr. James D. Boyd,
Executive Officer, California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, CA 95812

Dear Mr. Boyd: In response to your request of July 24, 1987, I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) on behalf of the Santa Barbara County Air Pollution Control District (SBCAPCD). We have reviewed your request for delegation and have found the SBCAPCD's programs and procedures to be acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR Part 60 Subpart
Emission Guidelines and Compliance Times.	C
Electric Utility Steam Generators	Da
Industrial, Commercial, Institutional Steam Generating Units.	Db
Petroleum Storage Vessels	Ka
Secondary Emissions from Basic Oxygen Process Steelmaking Facilities (C. after 1/20/83).	Na
Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After 8-17-83.	AAa
Kraft Pulp Mills	BB
Glass Manufacturing Plants	CC
Grain Elevators	DD
Surface Coating of Metal Furniture	EE
Stationary Gas Turbines	GG
Lead-Acid Battery Manufacturing Plants.	KK
Metallic Mineral Processing Plants	LL
Automobile & Light-Duty Truck Surface Coating Operations.	MM
Phosphate Rock Plants	NN
Ammonium Sulfate Graphic Arts Industry:.	PP
Publication Rotogravure Printing	QQ
Pressure Sensitive Tape and Label Surface Coating Operations.	RR
Industrial Surface Coating: Large Appliances.	SS
Metal Coil Surface Coating	TT
Asphalt Processing and Asphalt Roofing Manufacture.	UU
Synthetic Organic Chemical Manufacturing Industry: Equipment Leaks of VOC.	VV
Beverage Can Surface Coating Industry.	WW
Flexible Vinyl and Urethane Coating and Printing.	FFF
Equipment Leaks of VOC, Petroleum Refineries and Synthetic Organic Chemical Manufacturing Industry.	GGG
Synthetic Fiber Production Facilities	HHH
Petroleum Dry Cleaners	JJJ
Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.	KKK
Onshore Natural Gas Processing: SO_2 Emissions.	LLL
Nonmetallic Mineral Processing Plants.	000
Wool Fiberglass Insulation Manufacturing.	PPP

NESHAPS	40 CFR Part 61 Subpart
General Provisions	A
Vinyl Chloride	F
Equipment Leaks (Fugitive Emission Sources) of Benzene.	J
Asbestos	M
Inorganic Arsenic Emissions from Glass Manufacturing Plants.	N
Inorganic Arsenic Emissions from Primary Copper Smelters.	O
Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic production Facilities.	P
Equipment Leaks (Fugitive Emission Sources).	V

In addition, we are redelegating the following NSPS and NESHAPS categories since the SBAPCD's revised programs and procedures are acceptable:

NSPS	40 CFR Part 60 Subpart
General Provisions	A
Fossil-Fuel Fired Steam Generators	D
Incinerators	E
Portland Cement Plants	F
Nitric Acid Plants	G
Sulfuric Acid Plants	H
Asphalt Concrete Plants	I
Petroleum Refineries	J
Storage Vessels for Petroleum Liquids.	K
Secondary Lead Smelters	L
Secondary Brass & Bronze Ingot Production Plants.	M
Primary Emissions from Basic Oxygen Process Furnaces (C. after 6/11/73).	N
Sewage Treatment Plants	O
Primary Copper Smelters	P
Primary Zinc Smelters	Q
Primary Lead Smelters	R
Primary Aluminum Reduction Plants	S
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants.	T
Phosphate Fertilizer Industry: Superphosphoric Acid Plants.	U
Phosphate Fertilizer Industry: Diammonium Phosphate Plants.	V
Phosphate Fertilizer Industry: Triple Superphosphate Plants.	W
Phosphate Fertilizer Industry: Granular Triple Superphosphate.	X
Coal Preparation Plants	Y
Ferroalloy Productzon Facilities	Z
Iron and Steel Plants (Electric Arc Furnaces).	AA
Lime Manufacturing Plants	HH

NESHAPS	40 CFR Part 61 Subpart
Beryllium	C
Beryllium Rocket Motor Firing	D
Mercury	E

EPA is not delegating Radionuclides under the Clean Air Act (NESHAPS, Subparts B, H, I, and K) until delegation procedures and requirements are developed.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61, including use of EPA's test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the Federal Register in the near future.

Sincerely,

Judith E. Ayres,

Regional Administrator.

cc: Santa Barbara County Air Pollution Control District

Terry McGuire,

Technical Support Division, CARB.

With respect to the areas under the jurisdiction of the SBCAPCD, all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAPS source categories should be directed to the SBCAPCD at the address shown in the **ADDRESS** section of this notice.

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

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of sections 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: September 8, 1987.

Charles W. Murray, Jr.,

Acting Regional Administrator.

[FR Doc. 87-21488 Filed 9-16-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 60 and 61

[A-9-FRL-3262-7]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); State of Hawaii

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS and NESHAPS authority to the Hawaii Department of Health (HDOH). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS and NESHAPS categories from EPA to State and local governments.

EFFECTIVE DATE: August 31, 1987.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, State Implementation Plan Section (A-2-3), Air Programs Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8066, FTS 454-8066.

SUPPLEMENTARY INFORMATION: The HDOH has requested authority for delegation of certain NSPS and NESHAPS categories. Delegation of authority was granted by a letter dated August 31, 1987 and is reproduced in its entirety as follows:

John C. Lewin, M.D.,

Director of Health, Hawaii State Department of Health, P.O. Box 3378, Honolulu, Hawaii 96801

Dear Dr. Lewin: In response to your request of August 7, 1987, I am pleased to inform you that we are delegating to your agency authority to implement and enforce two additional categories of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS). We have reviewed your request for delegation and have found your present programs and procedures to be acceptable. This delegation includes authority for the following categories:

NSPS	40 CFR Part 60 Subpart
General Provisions	A
NESHAPS	**40 CFR Part 61 Subpart**
General Provisions	A

This delegation amends the NSPS/NESHAPS agreement between the U.S. EPA and the Hawaii Department of Health dated August 15, 1983 and the amendments dated October 25, 1984, December 18, 1984, March 18, 1985, September 30, 1986, and January 27, 1987. The agreement is amended by adding authority for NSPS Subpart A, General Provisions and NESHAPS Subpart A, General Provisions. A copy of the amended agreement is enclosed.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61, including use of EPA approved test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the Federal Register in the near future.

Sincerely,

Judith E. Ayres,

Regional Administrator.

Enclosure

NSPS/NESHAPS Delegation Agreement

U.S. EPA and Hawaii Department of Health Services

Permits

1. After the effective date of this Agreement, Authority to Construct permits issued by HDOH shall include appropriate provisions to ensure compliance with applicable NSPS. The categories of new or modified sources covered by this agreement are:

a. General Provisions, Subpart A.

b. Fossil Fuel Steam Generators, Subpart D.

c. Electric Utility Steam Generator, Subpart Da.

d. Industrial-Commercial-Industrial Steam Generating Units, Subpart Db.

e. Incinerators, Subpart E.

f. Portland Cement Plants, Subpart F.

g. Asphalt Concrete Plants, Subpart I.

h. Petroleum Refineries Subpart J.

i. Storage Vessels for Petroleum Liquids Constructed after May 18, 1978, Subpart Ka.

j. Sewage Treatment Plants, Subpart O.

k. Stationary Gas Turbines, Subpart GG.

l. Bulk Gasoline Terminals, Subpart XX.

m. Beverage Can Surface Coating Industry, Subpart WW.

n. Equipment Leaks of VOC in Petroleum Refineries, Subpart GGG.

o. Petroleum Dry Cleaners, Subpart JJJ.

p. Steel Plants: Electric Arc Furnace and Argon Oxygen Decarburization Vessels constructed after October 21, 1974 and on or before August. 17, 1983, Subpart AA.

q. Steel Plants: Furnaces and Vessels constructed after August 17, 1983, Subpart AAa.

r. Nonmetallic Mineral Processing Plants, Subpart OOO.

2. After the effective date of this Agreement, Authority to Construct permits issued by HDOH shall include appropriate provisions to ensure compliance with applicable NESHAPS.

A. The categories of sources covered by this Agreement are:

a. General Provisions, Subpart A.

b. Mercury, Subpart E.

c. Equipment Leaks (Fugitive Emission Sources) of Benzene, Subpart J.

d. Equipment Leaks (Fugitive Emissions Sources), Subpart V.

With respect to the areas under the jurisdiction of the HDOH, all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAPS source categories should be directed to the HDOD at the address shown in the letter of delegation.

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

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of sections 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: September 8, 1987.

Charles W. Murray, Jr.,

Acting Regional Administrator.

[FR Doc. 87-21489 Filed 9-16-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 61

[A-9-FRL-3261-9]

Delegation of National Emission Standards for Hazardous Air Pollutants (NESHAPS); State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of NESHAPS authority to the California Air Resources Board (CARB) on behalf of the Great Basin Unified Air Pollution Control District (GBUAPCD). This action is necessary to bring the NESHAPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NESHAPS categories from EPA to State and local government.

EFFECTIVE DATE: August 6, 1987.

ADDRESS: Great Basin Unified Air Pollution Control District, 157 Short Street, Suite 6, Bishop, CA 93514.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, State Implementation Plan Section (A-2-3), Air Programs Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8066, FTS 454-8066.

SUPPLEMENTARY INFORMATION: The CARB has requested authority for delegation of certain NESHAPS categories on behalf of the GBUAPCD. Delegation of authority was granted by a letter dated August 6, 1987 and is reproduced in its entirety as follows:

Mr. James D. Boyd,
Executive Officer, California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, CA 95812

Dear Mr. Boyd: In response to your request of July 28, 1987, I am pleased to inform you that we are delegating to your agency authority to implement and enforce one category of National Emission Standards for Hazardous Air Pollutants (NESHAPS) on behalf of the Great Basin Unified Air Pollution Control District (GBUAPCD). We have reviewed your request for delegation and have found the GBUAPCD's programs and procedures to be acceptable. This delegation includes authority for the following source category:

NESHAPS	40 CFR Part 61 Subpart
Asbestos	M

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 61, including use of EPA's test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,

Regional Administrator.

cc: Great Basin Unified Air Pollution Control District

Terry McGuire,

Technical Support Division, CARB.

With respect to the areas under the jurisdiction of the GBUAPCD, all reports, applications, submittals, and other communications pertaining to the above listed NESHAPS source categories should be directed to the GBUAPCD at the address shown in the **ADDRESS** section of this notice.

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

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of sections 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: September 8, 1987.

Charles W. Murray,

Acting Regional Administrator.

[FR Doc. 87-21482 Filed 9-16-87; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 507 and 552

[Acquisition Circular AC-87-1; Supplement No. 1]

General Services Administration Acquisition Regulation; Comparison of Retirement Costs Under OMB Circular A-76

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Temporary regulation.

SUMMARY: This supplement to the General Services Administration Acquisition Regulation, Acquisition Circular AC-87-1 extends the expiration date to March 7, 1988. The intended effect is to extend the policies and procedures as established in AC-87-1, which temporarily implemented the Office of Management and Budget (OMB) Transmittal Memorandum No. 4 which revised OMB Circular A-76 procedures for calculation and comparison of retirement costs in GSA pending a revision to the Federal Acquisition Regulation.

EFFECTIVE DATE: September 9, 1987. *Expiration Date:* March 8, 1988, unless canceled earlier or extended.

FOR FURTHER INFORMATION CONTACT: Ms. Marjorie Ashby, Office of GSA Acquisition Policy and Regulations (VP), (202) 523-3822.

SUPPLEMENTARY INFORMATION: The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule. When AC-87-1 was originally issued, the GSA certified that under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) that the document would not have a significant economic effect on a substantial number of small entities. This rule will not have a significant impact because of the limited number of solicitations subject to the requirement (approximately 21 in the next year).

The information collection requirements contained in this rule have been approved by OMB under the Paperwork Reduction Act and assigned OMB Control No. 0348-0036.

List of Subjects in 48 CFR Parts 507 and 552

Government procurement.

1. The authority citation for 48 CFR Parts 507 and 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. 48 CFR Parts 507 and 552 are amended by the following supplement to Acquisition Circular AC–87–1:

General Services Administration Acquisition Regulation Acquisition Circular AC–87–1, Supplement No. 1

September 9, 1987.

To: All GSA contracting activities
Subject: Comparison of retirement costs under OMB Circular A–76

1. *Purpose.* This supplement extends the expiration date of General Services Administration Acquisition Regulation Acquisition Circular AC–87–1.

2. *Effective:* September 9, 1987.

3. *Expiration date:* The General Services Administration Acquisition Regulation Acquisition Circular AC–87–1 and this supplement will expire on March 8, 1988, unless cancelled earlier.

Patricia A. Szervo,

Associate Administrator for Acquisition Policy.

[FR Doc. 87–21433 Filed 9–16–87; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 651

[Docket No. 70620–7184]

Northeast Multispecies Fishery

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

ACTION: Final rule.

SUMMARY: NOAA issues this final rule to amend and extend the interim rule implementing the Fishery Management Plan for the Northeast Multispecies Fishery (FMP). Amendment 1 to the FMP, which this rule implements, addresses deficiencies in the interim rule. The intended effect of the rule is to maintain the abundance and viability of the groundfish stocks to support both commercial and recreational fisheries.

EFFECTIVE DATE: October 1, 1987, except for the recordkeeping requirement in § 651.22(f), which has been submitted to the Office of Management and Budget for approval. When approval is received, a notice will be published in the **Federal Register** making this section effective.

ADDRESS: Copies of the environmental assessment, supplementary regulatory impact review and regulatory flexibility analysis prepared for Amendment 1 are available from Douglas Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway, Saugus, MA 01908.

FOR FURTHER INFORMATION CONTACT: Peter D. Colosi, Jr. (Multispecies Plan Coordinator), 617–281–3600, ext. 252.

SUPPLEMENTARY INFORMATION: The New England Fishery Management Council (Council) prepared Amendment 1 to amend and extend the FMP, which was approved by the Secretary of Commerce only until September 30, 1987. Amendment 1 addresses deficiencies in the FMP that were identified by the Secretary in his decision to approve the FMP conditionally for one year (51 FR 29642, August 20, 1986). The proposed rule for Amendment 1 was published June 23, 1987, at 52 FR 23570 and invited public comment.

Amendment 1 contains ten specific changes and additions to the management system. These are as follows:

1. The December–January exempted fishery for whiting is limited to the exempted fishery area west of 69°00′ W. longitude.

2. For the June–November exempted fishery, the species against which the ten percent bycatch of regulated species may be calculated are limited to dogfish, herring, mackerel, ocean pout, red hake, silver hake, and squid.

3. The southern boundary of the regulated mesh area on Georges Bank east of 69°40′ W. longitude is extended slightly southward.

4. Dredge gear designed to take scallops may not be used in the Southern New England Closed Area during closure periods.

5. The minimum mesh size for mobile gear nets must extend for at least 75 meshes forward of the terminus of the net.

6. No vessel fishing in or transiting the regulated mesh area may have a net available for immediate use with a mesh smaller than the minimum size specified in the regulations.

7. The dimensions of Closed Area I are changed, and the area will be moved to the south and east by regulatory amendment at a later date.

8. Hook-and-line gear is permitted for use in the Southern New England Closed Area, but yellowtail flounder may not be possessed.

9. The December–May exempted fishery program (EFP) for herring and mackerel is eliminated, but mid-water trawling is permitted subject to a permit issued by the Regional Director.

10. Upon recommendation of the Council, and in consultation with the Atlantic States Marine Fisheries Commission, the Regional Director may permit the use of certain selective gear in the northern shrimp fishery in the exclusive economic zone (EEZ) as an alternative to participation in the EFP, or require, by regulatory amendment to the FMP, the use of certain selective gear in the EEZ shrimp fishery.

Comments and Responses

Comments received strongly supported approval of the Amendment.

Written comments were submitted by the Point Judith Fishermen's Cooperative Association, Massachusetts Inshore Draggermen's Association, Maine Fishermen's Cooperative, U.S. Environmental Protection Agency, New England Fishery Management Council, Department of the Interior, Conservation Law Foundation, Arnold Fisheries Co., Levin Marine Supply, Inc., F/V Elizabeth, F/V Kathleen A. Mirarchi, Otonka, Inc., Roger F. Woodman, Jr., & Co., F/V Deb & Tres III, Congressman Gerry Studds, Congressman Don Young, Congresswoman Claudine Schneider, Senator William S. Cohen, Senator George J. Mitchell, Senator Edward M. Kennedy, Senator John F. Kerry, Senator John Chafee, Senator Claiborne Pell, and two individuals.

Comment: Twenty commenters stated that they supported unconditional approval of Amendment 1 as prepared by the Council, because it addressed the problems of conservation and would be supported by the industry.

Response: Amendment 1 is approved as requested.

Comment: Three commenters stated that the measures contained in Amendment 1 were insufficient to meet the objectives of the FMP or to prevent overfishing.

Response: The measures in Amendment 1 are designed to work towards the attainment of FMP objectives. If implementation of the measures in Amendment 1 demonstrates them to be inadequate, the Technical Monitoring Group is designed to recognize this early and recommend action to the Council that will address the problem.

Comment: Three commenters stated that implementing a Secretarial Amendment instead of the Council's Amendment would erode industry confidence and support of management.

Response: A Secretarial Amendment will not be implemented at this time, because Amendment 1 has been approved.

Comment: Three commenters stated that the questions contained in the preamble to the proposed rule were inappropriate, prejudicial and out of context.

Response: Many commenters responded to the questions contained in the preamble and most responses indicated strong support for the measures contained in Amendment 1. This support had a substantial bearing on the decision to approve the Amendment.

Comment: Five commenters stated that the 5.5-inch minimum mesh size for 75 meshes was preferable to the entire net for the near term. It would give dealers and fishermen time to use up current twine.

Response: This measure is part of the approved amendment.

Comment: The Council made several comments of a minor technical or editorial nature.

Response: These comments are addressed in the body of the regulations.

Changes From the Proposed Rule

Sections 651.3(c) and 651.4(a)(2) are changed to omit the inappropriate reference to local law. The Council intended only the stricter of State or Federal regulations to prevail. Also, in § 651.4(a)(2), the reference to conservation measures is changed to management measures to avoid confusion.

A few changes of a technical or editorial nature have been made in this rule as follows:

In § 651.20(a)(1)(ii), degree signs are added to points of latitude and longitude.

In § 651.20(f)(4), the phrase "small mesh" is deleted from the sentence.

References to "FCZ" are changed to "EEZ" throughout the regulations.

Classification

The Regional Director has determined that Amendment 1 as approved is necessary for the conservation and management of northeast multispecies finfish and that it is consistent with the Magnuson Act and other applicable law.

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

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

The Council prepared an environmental assessment and the Assistant Administrator for Fisheries found there will be no significant impact on the environment as a result of this rule. Thus, it does not alter the final environmental impact statement of the FMP.

The Assistant Administrator for Fisheries finds for good cause—avoidance of a regulatory hiatus which would be damaging to the fishery resource—that it would be impracticable and contrary to the public interest to delay for 30 days the effective date of the final rule under section 553(d) of the Administrative Procedure Act.

This rule contains information collection requirements subject to the Paperwork Reduction Act. The permit requirements under § 651.4 have been approved by the Office of Management and Budget under OMB Control Number 0648–0097. The exempted fisheries program information requirement in § 651.4(n), and the reporting requirements in § 651.22(f), have been approved under OMB Control Number 0648–0016. The recordkeeping requirement in § 651.22(f) has been submitted to OMB for approval. When approval is received, it will be implemented by notice in the **Federal Register.**

The Council has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Maryland, Delaware, and North Carolina.

List of Subjects in 50 CFR Part 651

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 11, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR Part 651 is revised to read as follows:

PART 651—NORTHEAST MULTISPECIES FISHERY

Subpart A—General Provisions

Sec.

Subpart B—Management Measures

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

Subpart A—General Provisions

§ 651.1 Purpose and scope.

This part implements the Fishery Management Plan for the Northeast Multispecies Fishery, as amended by the New England Fishery Management Council in consultation with the Mid-Atlantic Fishery Management Council. These regulations govern the conservation and management of multispecies finfish.

§ 651.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this part have the following meanings:

Areas of custody means any vessels, buildings, vehicles, piers or dock facilities where finfish may be found.

Assistant Administrator means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, Washington, DC 20235, or a designee.

Authorized officer means

(a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the U.S. Coast Guard to enforce the provisions of the Magnuson Act; or

(d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Bottom-tending gill net means any gill net, anchored or otherwise, that is fished on or near the bottom in the lower third of the water column.

Butterfish means *Peprilus triacanthus.*

Catch, take, or harvest includes, but is not limited to, any activity which results in killing any fish or bringing any live fish aboard a vessel.

Charter and party boats means vessels carrying recreational fishing parties for a per capita fee or for a charter fee.

Exempted fisheries means those species found in the exempted fisheries program (§ 651.23).

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

Fishing means any activity, other than scientific research conducted by a scientific research vessel, which involves:

(a) The catching, taking or harvesting of fish;

(b) The attempted catching, taking or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraph (a), (b), or (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for

(a) Fishing; or

(b) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing; including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Herring means Atlantic herring, *Clupea harengus harengus*, or blueback herring, *Alosa aestivalis*.

Land means to begin offloading fish, to offload fish, or to transfer fish to another vessel.

Longline gear means fishing gear which is set horizontally, either anchored, floating, or attached to a vessel, which consists of a main or ground line with three or more gangions and hooks.

Mackerel means Atlantic mackerel, *Scomber scombrus*.

Magnuson Act means the Magnuson Fishery Conservation and Management Act, as amended (16 U.S.C. 1801 *et seq.*).

Mid-Atlantic area means that area west and south of a line commencing at 41°18'16.2" N. latitude, 71°54'28.5" W. longitude and proceeding 142°37'27.25" True to the point of intersection with the outer boundary of the EEZ.

Midwater trawl gear means pelagic trawl gear, no portion of which is operated in contact with the bottom at any time.

Multispecies finfish includes, but is not limited to, the following finfish in the Northeast portion of the Atlantic Ocean EEZ.

Gadus morhua.....Atlantic cod.
Glyptocephalus cynoglossus....witch flounder.
Hippoglossoides platessoides...American plaice.
Limanda ferruginea.....yellowtail flounder.
Melanogrammus aeglefinus.....haddock.
Pollachius virens.....pollock.
Pseudopleuronectes americanus...winter flounder.
Scophthalmus aquosus...windowpane flounder.
Sebastes marinus.....redfish.
Urophycis tenuis.....white hake.

New England area means that area east and north of a line commencing at 41°18'16.2" N. latitude, 71°54'28.5" W. longitude and proceeding 142°37'27.25" True to the point of intersection with the outer boundary of the EEZ.

Official number means the documentation number issued by the U.S. Coast Guard or the registration number issued by a State or the U.S. Coast Guard for undocumented vessels.

Operator, with respect to any vessel, means the master or other individual aboard and in charge of that vessel.

Owner, with respect to any vessel, means

(a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether bareboat, time, or voyage;

(c) Any person who acts in the capacity of a charterer, including but not limited to, parties to a management agreement, operating agreement, or other similar arrangement that bestows control over the destination, function, or operation of the vessel; or

(d) Any agent designated as such by any person described in paragraph (a), (b), or (c) of this definition.

Person means any individual (whether or not a citizen of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Recreational fishing means fishing for finfish which does not result in their barter, trade, or sale.

Recreational fishing vessel means any vessel from which no fishing other than recreational fishing is conducted. Party and charter boats are not considered recreational fishing vessels.

Regional Director means the Regional Director, Northeast Region, NMFS, 14 Elm Street, Federal Building, Gloucester, MA 01930, 617-281-3600, or a designee.

Regulated species means a subset of multispecies finfish which includes Atlantic cod, witch flounder, American plaice, yellowtail flounder, haddock, pollock, winter flounder, and redfish.

Retain aboard means to fail to return fish to the sea after a reasonable opportunity to sort the catch.

Secretary means the Secretary of Commerce, or a designee.

Squids means *Loligo pealei* or *Illex illecebrosus*.

U.S.-harvested fish means fish caught, taken, or harvested by vessels of the United States within any fishery regulated by a fishery management plan or preliminary fishery management plan implemented under the Magnuson Act.

Vessel of the United States means:

(a) Any vessel documented under chapter 121 of title 46, United States Code;

(b) Any vessel numbered under chapter 123 of title 46, United States Code, and measuring less than 5 net tons;

(c) Any vessel numbered under chapter 123 of title 46, United States Code, and used exclusively for pleasure; and

(d) Any vessel not equipped with propulsion machinery of any kind and used exclusively for pleasure.

Whiting means *Merluccius bilinearis*.

§ 651.3 Relationship to other laws.

(a) Fishing for squids, mackerel, and butterfish, which is affected by these rules, also is governed by other domestic rules under 50 CFR Part 655.

(b) Fishing vessel operators will exercise due care in the conduct of fishing activities near submarine cables. Damage to submarine cables resulting from intentional acts or from the failure to exercise due care in the conduct of fishing operations subjects the fishing vessel operator to the criminal penalties prescribed by the Submarine Cable Act (47 U.S.C. 21) which implements the International Convention for the Protection of Submarine Cables. Fishing vessel operators also should be aware that the Submarine Cable Act prohibits fishing operations at a distance of less than one nautical mile from a vessel engaged in laying or repairing a submarine cable; or at a distance of less than one quarter nautical mile from a buoy or buoys intended to mark the position of a cable when being laid or when out of order or broken.

(c) Nothing in these regulations will supercede more restrictive State or local management measures for multispecies finfish.

§ 651.4 Vessel permits.

(a) *General.* (1) Any vessel of the United States fishing for multi-species

finfish, except commercial vessels fishing exclusively within State waters and recreational fishing vessels, must have a permit required by this part aboard the vessel.

(2) Vessel owners or operators who apply for a fishing vessel permit under this section must agree as a condition of the permit that the vessel's fishing, catch, and pertinent gear (without regard to whether such fishing occurs in the EEZ or landward of the EEZ and without regard to where such fish or gear are possessed, taken, or landed) will be subject to all the requirements of this part. All such fishing, catch, and gear will remain subject to any applicable State requirements. If a requirement of this part and a management measure required by State law differ, any vessel owner or operator permitted to fish in the EEZ must comply with the more restrictive requirement.

(b) *Application.* (1) An application for a fishing vessel to participate in the multispecies finfish fishery must be submitted and signed by the vessel owner on an appropriate form which may be obtained from the Regional Director. The application should be submitted to the Regional Director at least 2 months prior to the date on which the applicant desires to have the permit made effective to ensure that he will receive the permit on time.

(2) Applicants must provide all of the following information:

(i) The name, mailing address, and telephone number of the applicant and the vessel's master;

(ii) If the vessel owner is a corporation, the officers' and shareholders' names and mailing addresses;

(iii) The name of the vessel;

(iv) The vessel's official number;

(v) The home port and gross tonnage of the vessel;

(vi) The engine horsepower of the vessel;

(vii) The approximate fish-hold capacity of the vessel in pounds;

(viii) The type of fishing gear used by the vessel; and

(ix) The size of the crew, which may be stated in terms of a range.

(c) *Issuance.* (1) Upon receipt of a completed application, the Regional Director will issue a permit within 45 days.

(2) Upon receipt of an incomplete or improperly executed application, the Regional Director will notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 21 days following the date of notification, the application will be discarded.

(d) *Surrender.* (1) A permit issued for a vessel may be surrendered by the owner thereof by certified mail addressed to the Regional Director.

(2) The Regional Director will reissue a permit which has been surrendered within 45 days from the date the reissuance was requested.

(e) *Expiration.* A permit expires on December 31 of each year.

(f) *Duration.* A permit is valid until it is voluntarily returned or expires or is revoked, suspended, or modified under 15 CFR Part 904.

(g) *Alteration.* Any permit which has been altered, erased, or multilated is invalid.

(h) *Replacement.* Replacement permits may be issued. An application for a replacement permit will not be considered a new application.

(i) *Transfer.* Permits issued under this part are not transferable or assignable. A permit is valid only for the vessel for which it is issued.

(j) *Display.* Any permit issued under this part must be carried aboard the fishing vessel at all times. The permit must be displayed for inspection at the request of an authorized officer.

(k) *Suspension and revocation.* Subpart D of 15 CFR Part 904 governs the imposition of sanctions against a permit issued under this part.

(l) *Fees.* No fee is required for any permit under this part.

(m) *Change is application information.* Any change in the information specified in paragraph (b) of this section must be reported to the Regional Director within 15 days of the change. Failure to report a change in information within 15 days of the change invalidates the permit.

(n) *Exempted fisheries program.* Any permit holder may initially request entry into the exempted fisheries program under § 651.22 by telephoning 617–281–4454. The permit holder must give his/her name, vessel name, vessel permit number, the specific exemption requested, the starting date and estimated duration of participation in the program, and the area of operation. The permit holder must have the letter of certification, which will be issued within one week, aboard at all times while engaged in an exempted fishery.

§ 651.5 Recordkeeping and reporting requirements. [Reserved]

§ 651.6 Vessel identification.

(a) *Vessel name.* Each fishing vessel subject to this part over 25 feet in length must display its name on the port and starboard sides of its bow and, as possible, on its stern.

(b) *Official number.* Each fishing vessel subject to this part over 25 feet in length must display its official number on the port and starboard sides of the deckhouse or hull and on an appropriate weather deck so as to be visible from above.

(c) *Numerals.* Except as provided in paragraph (e) of this section, the official number must be permanently affixed to each vessel subject to this part in contrasting block Arabic numerals at least 18 inches in height for vessels over 65 feet in length, and at least 10 inches in height for vessels over 25 feet in length. The length of a vessel, for purposes of this section, will be that length set forth in U.S. Coast Guard or State records.

(d) *Duties of owner and operator.* The owner and operator of each vessel subject to this part will

(1) Keep the vessel's name and official number clearly legible and in good repair, and

(2) Ensure that no part of the vessel, its rigging, its fishing gear, or any other object obstructs the view of the official number from an enforcement vessel or aircraft.

(e) *Nonpermanent markings.* Vessels carrying recreational fishing parties on a per capita basis or by charter must use markings that meet the above requirements, except for the requirement that they be affixed permanently to the vessel. The nonpermanent markings must be displayed in conformity with the above requirements when the vessel is fishing for multispecies finfish.

§ 651.7 Prohibitions.

(a) It is unlawful for any person owning or operating a vessel issued a permit under § 651.4 to do any of the following:

(1) Land or possess any regulated species which fails to meet the minimum fish sizes specified in § 651.23; and

(2) Fail to affix and maintain permanent markings as required by § 651.6.

(b) It is unlawful for any person to do any of the following:

(1) Use any vessel of the United States (except recreational fishing vessels) for taking, catching, harvesting or landing any regulated species taken from the EEZ unless the vessel has a valid permit issued under this part and the permit is aboard the vessel;

(2) Fish within the areas described in § 651.20(a) with nets smaller than the minimum size specified in § 651.20(b) unless the vessel is certified in an exempted fisheries program established under § 651.22;

(3) Fish within the areas described in § 651.20(a) outside of the exempted fisheries area specified in § 651.22(a) while the vessel is certified to participate in the exempted fisheries program under § 651.22;

(4) Fish in either area specified in § 651.21 during a period in which that area is closed, unless allowed by that section;

(5) Fail to comply with the gear-marking requirements of § 651.25;

(6) Having been signaled by an authorized officer, dump on board or into the water the contents of the net before the authorized officer has permitted the net to be emptied;

(7) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, land, or export any regulated species taken, retained, or imported in violation of the Magnuson Act, this part, or any other regulation under the Magnuson Act;

(8) Import regulated species which are smaller than the minimum sizes specified in § 651.23;

(9) Make any false statement in connection with an application under § 651.4.

(10) Make any false statement, oral or written, to an authorized officer, concerning the taking, catching, harvest, landing, purchase, sale, possession, or transfer of any regulated species;

(11) Refuse to permit an authorized officer to board a fishing vessel or to enter an area of custody, subject to such person's control, for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, or any other regulation or permit under the Magnuson Act;

(12) Forcibly assault, resist, oppose, impede, intimidate, threaten, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (b)(11) of this section;

(13) Resist a lawful arrest for any act prohibited by this part;

(14) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, with the knowledge that such other person has committed any act prohibited by this part;

(15) Interfere with, obstruct, delay, or prevent by any means the lawful investigation or search in the process of enforcement this part;

(16) Fail to comply immediately with enforcement and boarding procedures specified in § 651.8;

(17) Transfer directly or indirectly, or attempt to transfer, to any vessel not having a permit under this part any U.S.-harvested, regulated species; or

(18) Violate any provisions of the exempted fisheries program specified in § 651.22.

(c) It is unlawful to violate any other provision of this part, the Magnuson Act, or any regulations or permit issued under the Manguson Act.

(d) *Presumption.* The possession for sale of regulated species which do not meet the minimum sizes specified in § 651.23 for sale will be *prima facie* evidence that such regulated species were taken or imported in violation of these regulations. Evidence that such fish were harvested by a vessel not holding a permit under this part and fishing exclusively within State waters will be sufficient to rebut the presumption. This presumption does not apply to fish being sorted on deck.

§ 651.8 Facilitation of enforcement.

(a) *General.* The operator of, or any other person aboard any fishing vessel subject to this part must immediately comply with instructions and signals issued by an authorized officer to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record (where applicable), and catch for purposes of enforcing the Magnuson Act and this part.

(b) *Communications.* (1) Upon being approached by a U.S. Coast Guard vessel or aircraft or other vessel or aircraft with an authorized officer aboard, the operator of a fishing vessel must be alert for communications conveying enforcement instructions.

(2) If the size of the vessel and the wind, sea, and visibility conditions allow, loudhailer is a preferred method for communicating between vessels. If use of a loudhailer is not practicable, and for communications with an aircraft, VHF-FM or high frequency radiotelephone will be employed. Hand signals, placards, or voice may be employed by an authorized officer and message blocks may be dropped from an aircraft.

(3) If other communications are not practicable, visual signals may be transmitted by flashing light directed at the vessel signaled. Coast Guard units will normally use the flashing light signal "L" as the signal to stop.

(4) Failure of a vessel's operator to stop his vessel when directed to do so by an authorized officer using loudhailer, radiotelephone, flashing light signal, or other means constitutes *prima facie* evidence of the offense of refusal to allow an authorized officer to board.

(5) The operator of a vessel who does not understand a signal from an enforcement unit and who is unable to obtain clarification by loudhailer or radiotelephone must consider the signal to be a command to stop the vessel instantly.

(c) *Boarding.* The operator of a vessel directed to stop must

(1) Guard Channel 16, VHF-FM, if so equipped;

(2) Stop immediately and lay to or maneuver in such a way as to allow the authorized officer and his party to come aboard;

(3) Except for those vessels with a freeboard of four feet or less, provide a safe ladder, if needed, for the authorized officer and his party to come aboard;

(4) When necessary to facilitate the boarding or when requested by an authorized officer, provide a manrope or safety line, and illumination for the ladder; and,

(5) Take such other actions as necessary to facilitate boarding and to ensure the safety of the authorized officer and the boarding party.

(d) *Signals.* The following additional signals, extracted from the International Code of Signals, may be sent by flashing light by an enforcement unit when conditions do not allow communications by loudhailer or radiotelephone. Knowledge of these signals by vessel operators is not required. However, knowledge of these signals and appropriate action by a vessel operator may preclude the necessity of sending the signal "L" and the necessity for the vessel to stop instantly.

(1) "AA" repeated (.– .–)[1] is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelephone or by illuminating the vessel's identification.

(2) "RY-CY" (.–. –.— –.–. –.—) means "You should proceed at slow speed, a boat is coming to you." The signal is normally employed when conditions allow an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear which may be in the water.

(3) "SQ3" (... —.– ...—) means "you should stop or heave to; I am going to board you."

(4) "L" (.–..) means "You should stop your vessel instantly."

§ 651.9 Penalties.

Any person or fishing vessel found to be in violation of this part will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Magnuson Act, 15 CFR

[1] Period (.) means a short flash of light; dash (–) means a long flash of light.

Part 904 (Civil Procedures), and other applicable law.

Subpart B—Management Measures

§ 651.20 Regulated mesh area and gear limitations.

(a) The mesh sizes stated in paragraphs (b) and (c) of this section will apply to all vessels fishing within the area defined by accepted boundary limits and by straight lines (rhumb lines) connecting the following points in the order stated:

(1) *Gulf of Maine regulated mesh area* (Figure 1):

(i) Bounded on the east by the U.S.-Canada maritime boundary (point L to point M to point F);

(ii) Bounded on the south by a line from 42°20′ N. latitude, 67°18.4′ W. longitude (point F) to 42°20′ N. latitude, 70°00′ W. longitude (point E) then southward to the intersection of 70°00′ W. longitude with the territorial sea (point D) then following the seaward limit of the territorial sea northward along the coasts of Massachusetts, New Hampshire, and Maine to the U.S.-Canada maritime boundary (point L).

(2) *Georges Bank regulated mesh area* (Figure 1):

Bounded by straight lines connecting the following points:

Point	Latitude, longitude	Loran C bearings
Z	40°18.7′ N., 69°40.0′ W.	9960-Y-43400 and 69°40′ W.
A	40°53.5′ N., 69°40.0′ W.	
B	41°35.0′ N., 69°40.0′ W.	
C	41°35.0′ N. and the territorial sea.	
D	Northward along the territorial sea to its intersection with 70°00.0′ W.	
E	42°20.0′ N., 70°00.0′ W.	
F	42°20.0′ N., 67°18.4′ W (on the U.S.-Canada maritime boundary).	
G	41°18.6′ N., 66°24.8′ W.	5930-Y-30750 and the U.S.-Canada maritime boundary
N1	40°55.5′ N., 66°38.0′ W.	5930-Y-30750 and 9960-Y-43500
N2	40°45.5′ N., 68°00.0′ W.	9960-Y-43500 and 68°00′ W.
N3	40°37.0′ N., 68°00.0′ W.	9960-Y-43450 and 68°00′ W.
N4	40°30.5′ N., 69°00.0′ W.	9960-Y-43450 and 69°00′ W.
N5	40°22.7′ N., 69°00.0′ W.	9960-Y-43400 and 69°00′ W.
Z	40°18.7′ N., 69°40.0′ W.	9960-Y-43400 and 69°40′ W.

Note: Loran lines are included for the convenience of fishermen. They are not to be relied upon for determining position for enforcement purposes.

(b) *Trawl nets*—(1) *Diamond mesh.* Except as provided for in §§ 651.20(b)(3), 651.20(d), and 651.22, the minimum mesh size for any trawl net, including midwater trawls, or Scottish seine used by a vessel fishing in the mesh areas described in paragraphs (a)(1) and (a) (2) of this section is 5½ inches for at least 75 continuous meshes forward of the terminus of the net (Figure 4).

(2) *Square mesh.* Vessels may use square mesh which the Regional Director has certified to be equivalent in terms of haddock escapement to the mesh sizes specified in paragraph (b)(1) of this section.

(3) *Selective shrimp gear.* Upon the recommendation of the Council, the Regional Director, after consultation with the Atlantic States Marine Fisheries Commission, may permit the use of gear with smaller mesh than that required in § 651.20(b)(1) for vessels in the shrimp fishery which use gear that has been demonstrated to allow adequate escapement of juvenile regulated species.

(c) *Gill nets.* (1) The minimum mesh size for any bottom-tending gill net used by a vessel fishing in the mesh areas described in paragraph (a) of this section will be the same as that specified under paragraph (b) of this section.

(2) In other portions of the New England area not subject to minimum mesh size restrictions under paragraph (b) of this section, the mesh in bottom-tending gill nets must be the same during the months of November through February as that in effect under paragraph (b) of this section for the Georges Bank regulated mesh area, as defined in paragraph (a)(2) of this section.

(d) *Midwater gear exception.* (1) For the Georges Bank regulated mesh area, fishing for Atlantic herring or blueback herring, mackerel, and squids may take place throughout the fishing year with mesh sizes less than the regulated size, provided that:

(i) Midwater trawl gear is used exclusively;

(ii) The vessel deploying midwater gear is permitted by the Regional Director; and

(iii) The bycatch of regulated species does not exceed one percent by weight of herrings, mackerel, and squids on board the vessel.

(2) For the Gulf of Maine regulated mesh area, fishing for herring and mackerel may take place from December through May with mesh sizes less than the regulated size, provided that the requirements of paragraphs (d)(1) (i) and (ii) of this section are met and that the bycatch of regulated species does not exceed one percent by weight of herrings and mackerel on board the vessel.

(e) *Mesh measurements.* (1) Mesh sizes are measured by a wedge-shaped gauge having a taper of two centimeters in eight centimeters and a thickness of 2.3 millimeters, inserted into the meshes under a pressure or pull of five kilograms. The mesh size will be the average of the measurements of any series of 20 consecutive meshes. The mesh in the regulated portion of the net will be measured at least five meshes away from the lacings, running parallel to the long axis of the net.

(2) A fishing vessel may not use any means or device which would obstruct the meshes on the top of the regulated portion of a trawl net, except that one net strengthener may be attached (only at its outside edges) to the top of the regulated portion of a trawl net, if such net strengthener consists of mesh material similar to the material of the regulated portion of the net and has a mesh size of the least twice the authorized minimum mesh size. "Top of the regulated portion of the net" means the 50 percent of the entire regulated portion of the net which (in a hypothetical situation) would not be in contact with the ocean bottom during a tow if the regulated portion of the net were laid flat on the ocean floor.

(f) Except as provided in paragraph (d) of this section, no vessel issued a permit under § 651.4 may have available for immediate use any net not meeting the requirements specified in paragraphs (b) and (c) of this section, or mesh that is rigged in a manner which is inconsistent with § 651.20(e)(2), while in the areas described in paragraph (a) of this section. A net that conforms to one of the four following specifications and which cannot be shown to have been in recent use is considered to be "not available for immediate use":

(1) Nets stored below deck; or

(2) Nets stowed and lashed down on deck; or

(3) Nets which are on reels and are covered and secured; or

(4) Nets on vessels which have the towing wires detached from the gear.

§ 651.21 Closed areas.

(a) *Georgia Bank.* No person may fish within the following areas during the months of February through May.

(1) An area known as Closed Area I (Figure 2) bounded by six straight lines (rhumb lines) connecting the following points in the order stated:

Point	Latitude	Longitude
a	40°53′ N.,	68°53′ W.;
b	41°35′ N.,	68°30′ W.;
c	41°50′ N.,	68°45′ W.;
d	41°50′ N.,	69°00′ W.;
e	41°30′ N.,	69°00′ W.;
f	41°30′ N.,	69°23′ W.; and
a	41°53′ N.,	68°53′ W.

(2) An area known as Closed Area II (Figure 2) bounded by three straight lines connecting the following points in the order stated:

Point	Latitude	Longitude
g	41°15' N.	67°00' W.;
h	41°15' N.	66°22.4' W. (the U.S.-Canada Maritime Boundary);
i	41°59.1' N.	67°00' W. (the U.S.-Canada Maritime Boundary);
g	41°15' N.	67°00' W.

(3) Exceptions. Paragraphs (a) (1) and (2) of this section do not apply.

(i) To longline vessels that fish with hooks having a gape of not less than 1.18 inches (30 mm), Closed Area I, only;

(ii) To pot gear designed and used to take lobsters; or

(iii) To dredges designed and used to take scallops.

(4) The Regional Director may open either of both Closed Areas I and II prior to the scheduled opening in May by notice in the **Federal Register**, if he determines that concentrations of spawning fish are no longer in the area(s).

(b) *Southern New England/Mid-Atlantic Region.* (1) Except as provided in paragraph (b)(3) of this section, during a closure, no person may fish within the area bounded by straight lines (rhumb lines) connecting the following points in the order stated (Figure 3):

Point	Latitude	Longitude
A	40°33.5' N.	69°40' W.;
N	40°26.5' N.	70°40' W.;
O	40°40.5' N.	70°40' W.;
P	40°30' N.	72°00' W.;
Q	40°17.8' N.	72°00' W.;
R	40°15.5' N.	72°20' W.;
S	40°39.0' N.	72°20' W.;
T	40°42.0' N.	72°00' W.;
U	40°48.2' N.	72°00' W.;
V	41°00' N.	70°49.5' W.;
W	41°00' N.	70°30' W.;
X	40°50' N.	70°30' W.;
Y	40°50' N.	69°40' W.; and
A	40°33.5' N.	69°40' W.

(2) The area defined in paragraph (b)(1) of this section will be regulated as follows:

(i) The portion of the area east of 71°30' W. longitude will close on March 1 each year and the portion west of 71°30' W. longitude will close on April 1 each year.

(iii) The entire area will be reopened at 2400 hours on May 31 of each year, or at an earlier date after May 1 by notice in the **Federal Register**, when the Regional Director, after consultation with Council, determines that the closure has achieved the appropriate spawning level for yellowtail and winter flounder.

(3) Exceptions.

(i) Paragraph (b)(1) of this section does not apply

(A) To pot gear designed and used to take lobsters;

(B) To dredge gear designed and used to take ocean quahogs or surf clams; and

(C) Hook-and-line gear; however, the possession of yellowtail flounder by persons or vessels fishing with hook and line gear within this area is prohibited.

(ii) In the Southern New England Closed Area described in § 651.21(b), fishing with midwater trawl gear may be permitted by the Regional Director. Any person intending to use midwater trawl nets in the area described in paragraph (b) of this section must notify the Regional Director in writing 30 days prior to the date on which the nets will be used. The Regional Director will issue a letter certifying the use of such nets. Fishing in these areas with midwater trawl nets may not commence without a letter of certification carried aboard the vessel. A vessel conducting such fishing may not retain aboard or land any regulated species.

§ 651.22 Exempted fishery program.

(a) *General.* The Regional Director will establish and implement an exempted fishery program to allow fishing vessels to engage in small mesh fisheries for species which require the use of mesh smaller than the size specified in § 651.20(b).

(1) Exempted fishing may be conducted shoreward of the area bounded by the straight lines (rhumb lines) connecting the following points in the order stated (Figure 1):

Point	Latitude	Longitude
C	41°35' N. and the territorial sea;	
B	41°35.5' N.	69°40' W.;
H	42°49.5' N.	69°40' W.;
I	43°12' N.	69°00' W.;
J	43°41' N.	68°00' W.;
K	43°58' N.	67°22' W. (the U.S.-Canada maritime Boundary); and
L	Northward along the irregular U.S.-Canada maritime boundary to the territorial sea.	

(2) The eastern boundary of the December–January combined whiting and shrimp exempted fishery is 69°00' W. longitude (Figure 1).

(b) *Entry.* (1) Any person owning or operating a vessel issued a valid Federal multispecies finfish permit may apply to fish under the exempted fisheries program by following the procedures set forth in § 651.4(n).

(2) The period of participation must be for at least 7 days, but not longer than 30 days. There is no limit on the number of times a vessel can apply to participate in the exempted fisheries program.

(c) *Certification.* (1) The Regional Director will certify in writing the entry of the applicant into the exempted fisheries program. Entry may be denied to an applicant based on the applicant's violation of the Magnuson Act, if the applicant has received a notice of violation and assessment concerning the violation.

(2) Entry of the applicant into the exempted fisheries program cannot occur until the applicant receives written certification from the Regional Director.

(d) *Commencement of fishing.* Fishing under the exempted fisheries program may begin after the applicant has received the certification from the Regional Director provided that this letter is retained aboard the vessel.

(e) *Limitations.* (1) During the period of participation in the exempted fisheries program, the vessel may not be employed to fish in the regulated mesh areas outside the area specified in paragraph (a) of this section. A vessel may not land regulated species in excess of the percentages specified in paragraph (e)(2) of this section over the period of participation in the program.

(2) Participation in the exempted fisheries program is subject to seasonal limitations, exempted species, and maximum regulated species percentage restrictions as follows:

Period	Target species	Comment
June through November	Dogfish, herring, mackerel, red hake, silver hake, squid, and ocean pout.	Regulated species may not exceed 10% of the total landings of dogfish, herring, mackerel, red hake, silver hake, squid, and ocean pout during the reporting period.

Period	Target species	Comment
December through January	Whiting	Regulated species may not exceed 10% of the total landings of whiting and shrimp during the reporting period; the fishery will be monitored by at-sea sampling.
December through May or as specified by ASFMC [1].	Shrimp	Regulated species may not exceed 10% of the total landings of shrimp during the reporting period.

[1] The Northern Shrimp Section of the Atlantic States Marine Fisheries Commission is responsible for the management of northern shrimp. The Section has designated a regulatory period from December through May within which it sets the annual fishing season for northern shrimp. The Section has the authority to adjust the regulatory period or add additional measures appropriate for the conservation of northern shrimp. The Section will consult with the New England Fishery Management Council regarding recommendations to adjust the regulatory period, with respect to the management of multispecies.

(3) Adjustments in the seasons, species or percentages of the exempted fisheries will be accomplished by regulatory amendment.

(f) *Recordkeeping and reporting.* The reporting period for the exempted fisheries will be 30 calendar days. Within one week from the expiration of the reporting period or withdrawal from the program under paragraph (g) of this section, or receipt of a notice of revocation under paragraph (h) of this section, the participant must mail or deliver to the Regional Director a NOAA Form 88–153 "Fishing Vessel Record", or business records that provide equivalent information, listing in pounds all fish landed during participation in the exempted fishery program on a trip-by-trip basis, or documentation that no fishing occurred. If no fish were landed, the participant must submit a document indicating no landings. The participant must provide, upon request of the Regional Director or his designee, trip landing records, kept in the normal course of business, that are certified as accurate by both the buyer and the seller for one year after his participation in the exempted fishery program to confirm the information required in NOAA Form 88–153. Buyer certification may be satisfied by the buyer's signature on the trip record that is retained by the seller (vessel operator). The responsible fishing vessel owner or opertor may alternatively maintain accurate trip-by-trip landings data on a NOAA Form 88–153 provided on request from the Regional Director.

(g) *Expiration or withdrawal.* Participation in the program expires at the end of the participation period under § 651.4(n), or when the owner's or vessel's name changes, or when a participant who has been duly operating in the program for at least 7 days notifies the Regional Director of his/her intent to withdraw from the program. Such withdrawal will be effective when the participant receives notice of the withdrawal from the Regional Director.

(h) *Revocation.* The Regional Director may end the participation of any applicant in the exempted fisheries program upon issuance of a notice of violation and assessment for violating any provisions of the program or the Magnuson Act. Notification will be in writing and will take effect upon receipt by the participant.

§ 651.23 Minimum fish size.

(a) The minimum sizes (total length) for certain regulated species follow:

(1) Commercial fishing vessels.

	Year 1 (inches)	Year 2 and beyond (inches)
Beyond Cod, haddock and pollock	17	19
Witch flounder (gray sole)	14	14
Yellowtail flounder	12	12
American plaice (dab)	12	12
Winter flounder (blackback)	11	11

(2) Recreational fishing vessels, charter and party boats, and individuals.

(i) Effective Year 1—Cod and haddock: 15 inches;

(ii) Effective Years 2 and 3—Cod and haddock: 17 inches;

(iii) Effective Year 4 and later—Cod and haddock: 19 inches.

(3) For purposes of paragraphs (a)(1) and (2) of this section, Year 1 is September 15, 1986, through September 30, 1987; Year 2 is October 1, 1987, through September 30, 1988; and Years 3 and later begin on October 1, 1988, and each year thereafter.

(b) The minimum lengths allowed by paragraph (a) of this section are measured on a straight line from the tip of the snout to the end of the tail.

§ 651.24 Experimental fishing.

The Secretary may authorize experimental fishing, which is not otherwise authorized by these regulations, for the acquisition of information.

§ 651.25 Gear marking requirements.

(a) Bottom-tending fixed gear (gill nets and longlines) fishing for multispecies finfish must have the name of the owner or vessel, or the official number of that vessel, permanently affixed to any bouys, gill nets, or longlines.

(b) Bottom-tending gill net or longline gear must be marked so that the westernmost end (measuring the half compass circle from magnetic south through west to and including north) of the gear displays a standard 12-inch tetrahedral corner radar reflector and a pennant positioned on a staff of least 6 feet above the buoy. The eastern most end (meaning the half compass circle from magnetic north through east to and including south) of the gear must display only the standard 12-inch tetrahedral radar reflector positioned in the same way.

(c) The maximum length of continuous gill nets must not exceed 6,600 feet between the end buoys.

(d) In the Gulf of Maine regulated mesh area specified in § 651.20, sets of gill net gear which are of an irregular pattern or which deviate more than 30 degrees from the original course of the set will be marked at the extremity of the deviation with an additional marker which must display two or more visible streamers and may either be attached to or independent of the gear.

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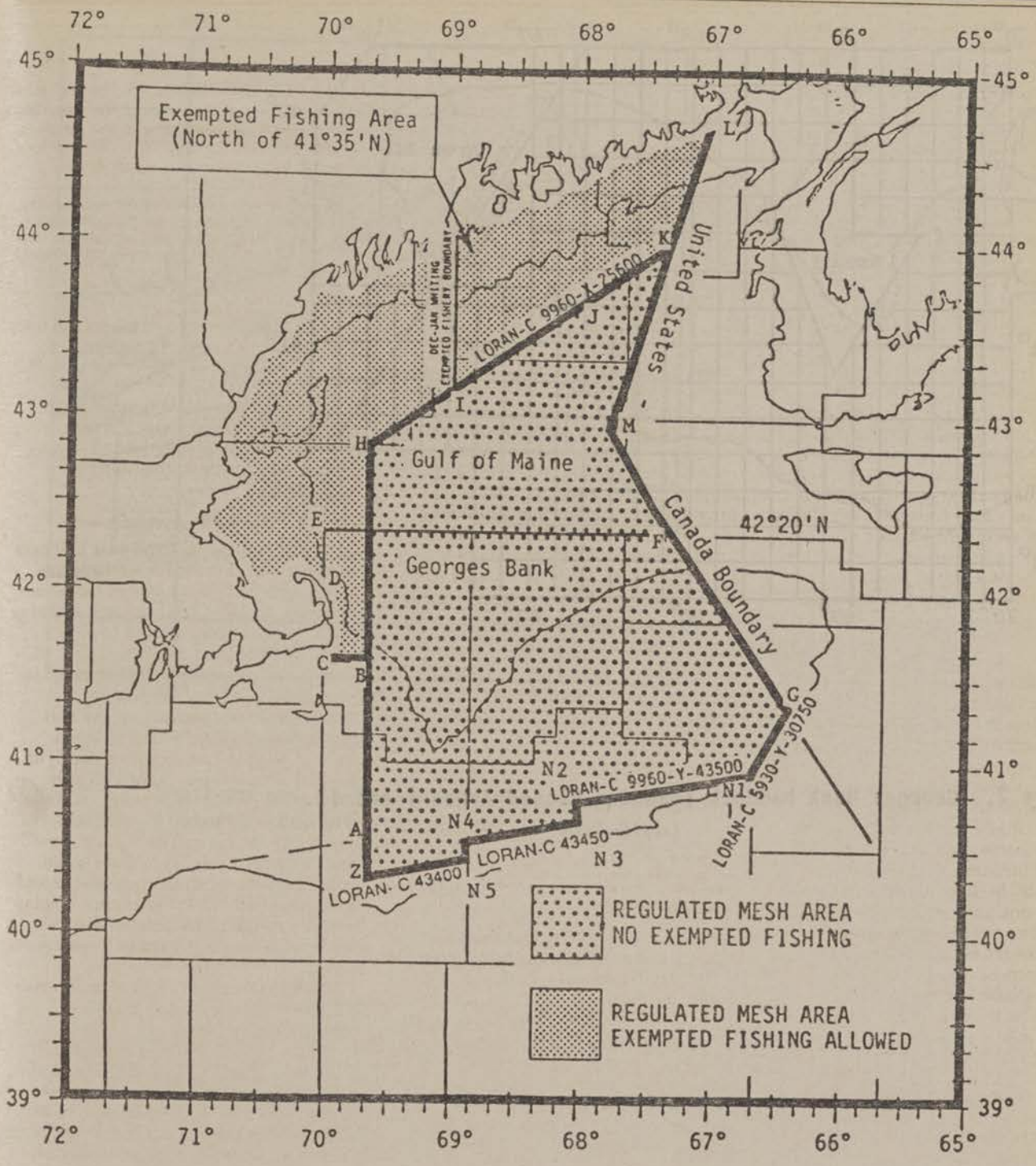

Figure 1. New England regulated mesh areas and areas of exempted and non-exempted fishing. See text for details. These areas are defined in §651.20(a). Loran lines are included for the convenience of fishermen. They are not to be relied upon for determining position for enforcement purposes.

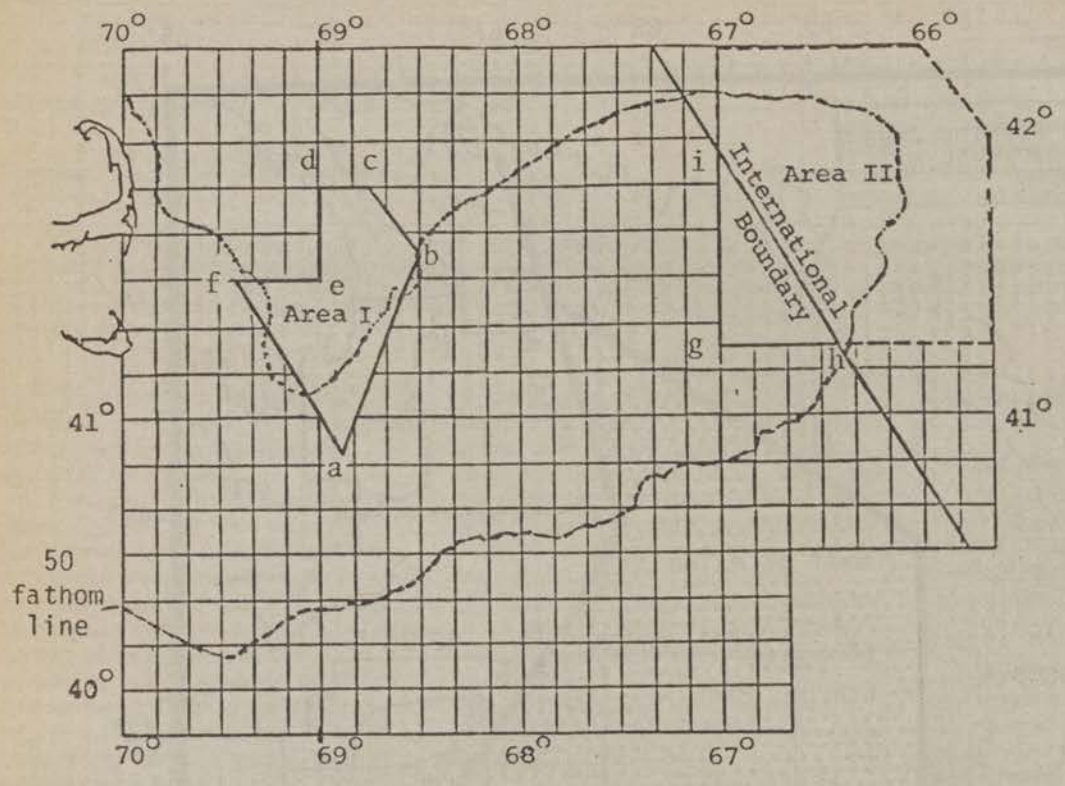

Figure 2. Georges Bank haddock spawning Closed Areas I and II.

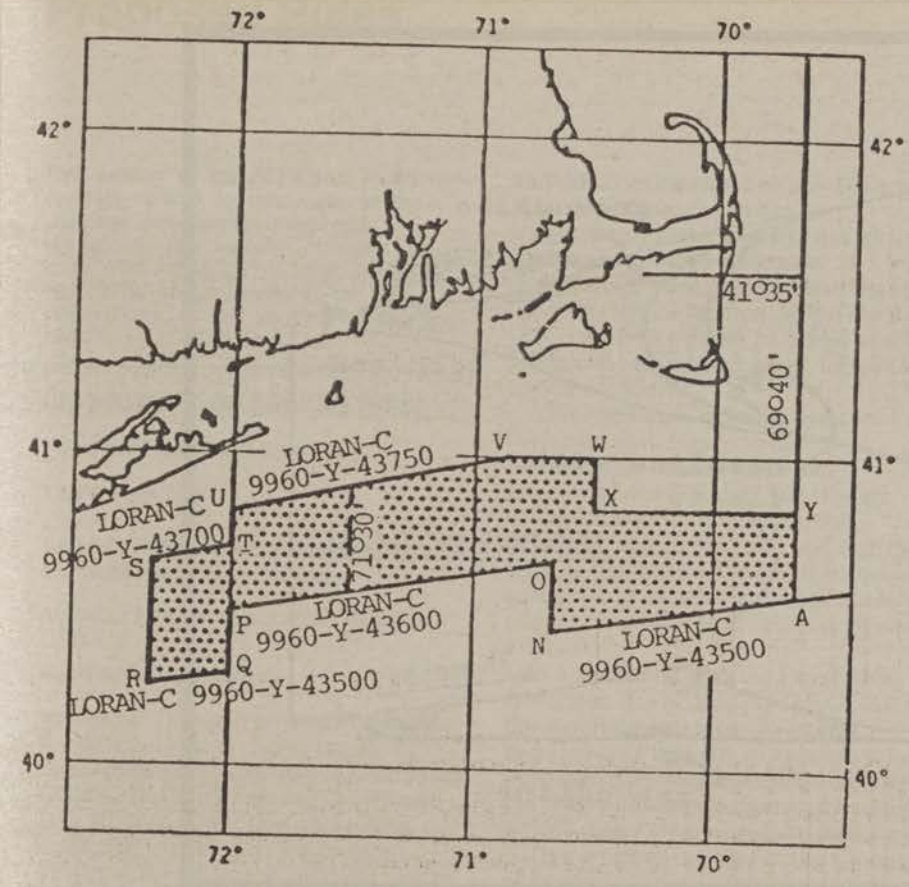

Figure 3. Southern New England/Middle Atlantic region closure. Coordinates listed in §651.21(b).

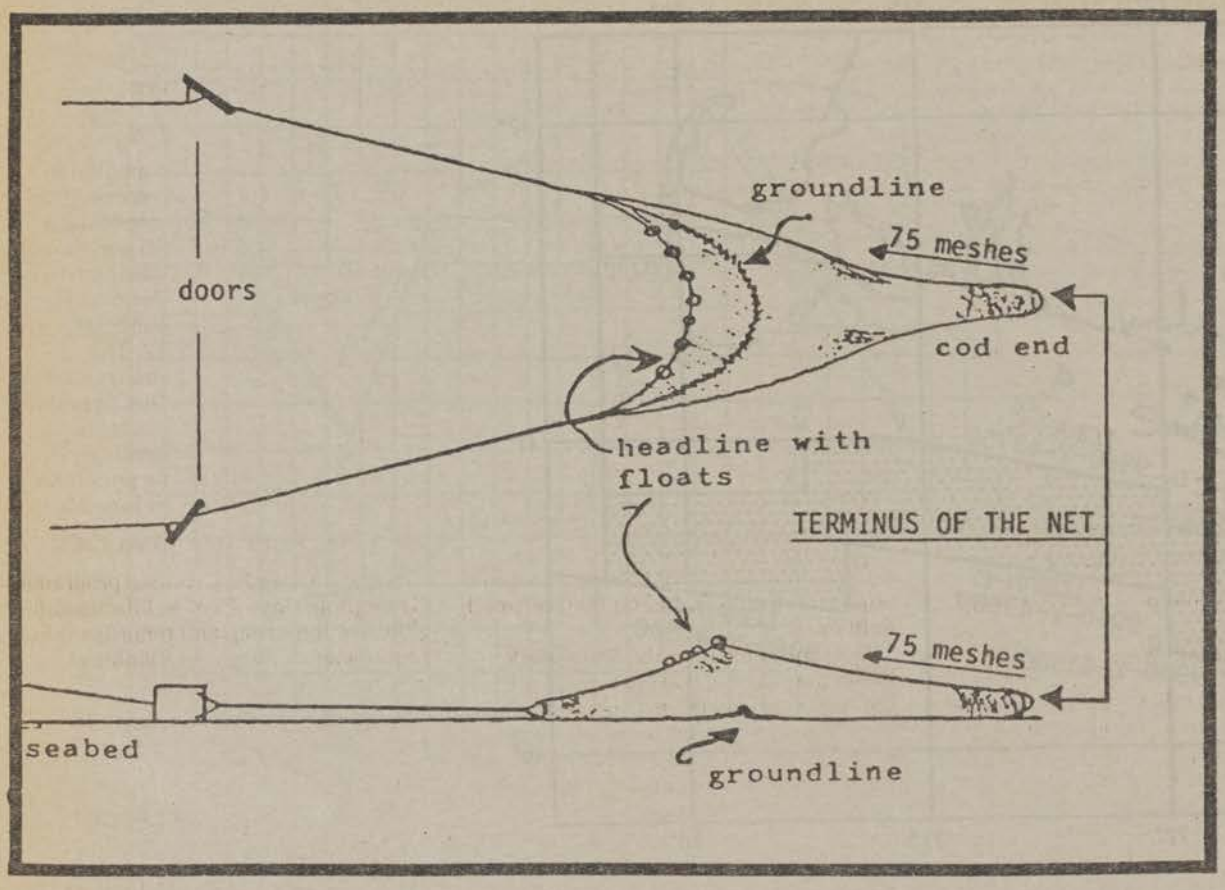

FIGURE 4 Diagram of a bottom trawl net showing the terminus of the net

[FR Doc. 87-21389 Filed 9-14-87; 4:49 pm]
BILLING CODE 3510-22-C

Proposed Rules

Federal Register
Vol. 52, No. 180
Thursday, September 17, 1987

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 226

Child Care Food Program; Key Element Reporting System

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes to extend the data collection period for the Key Element Reporting System (KERS) in the Child Care Food Program (CCFP) until June 30, 1988. Extension of the data collection is necessary because of delays in the clearance and distribution of the KERS forms which reduced the originally established data collection period by 6 months. The proposed extension period will provide the Department with the 13-month data collection period which was originally envisioned as necessary to provide a comprehensive assessment of KERS in its current form.

DATE: To be assured of consideration, comments must be postmarked on or before November 16, 1987.

ADDRESSES: Send comments to Policy and Program Development Branch, Child Nutrition Division, FNS, USDA, 3101 Park Center Drive, Room 509, Alexandria, Virginia 22302. Copies of all written comments on the proposed rule are available for review during normal business hours (8:30 a.m. to 5:00 p.m.) at the same address.

FOR FURTHER INFORMATION CONTACT: Mr. Lou Pastura, (703) 756–3620.

SUPPLEMENTARY INFORMATION:

Classification

The action has been reviewed under Executive Order 12291 and has been classified as not major because it will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices for Program participants, consumers, individual industries, Federal, State or local government agencies, or geographic regions, and will not have 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.

This regulation has also been reviewed with regard to the requirements of the Regulatory Flexibility Act (5. U.S.C. 601 through 612). Pursuant to the review, the Administrator of the Food and Nutrition Service has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting and recordkeeping requirements that are included in this proposed rule have been approved by the Office of Management and Budget (OMB) under clearance 0584–0055.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.558 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (7 CFR Part 3015, Subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983).

Background

On September 3, 1986, the Department published a final rule at 51 FR 31313 to incorporate a Key Element Reporting System (KERS) into the Child Care Food Program (CCFP) regulations. That final regulation requires State agencies to provide detailed information on institutional compliance with certain "key elements" of program operations. This system is intended to enhance the Department's ability to analyze the delivery of benefits at the local and State levels and to assess the need for program guidance or regulatory or legislative changes. The Department also believes that data obtained through this system will be helpful in developing comprehensive performance standards for the CCFP.

As the September 3 rule stipulates, KERS data collection was to have begun on December 1, 1986 and continue through December 31, 1987. The 13-month data collection period was established in the rule to give the Department a reasonable amount of time to assess the effectiveness of the system and to refine the use of data before implementing KERS permanently. Because of delays in the clearance and distribution of the KERS forms, data collection did not begin until approximately June 1, 1987. The Department continues to believe that a full 13-month data collection period is necessary to provide an accurate assessment of KERS. Accordingly, this proposal would extend the period for KERS data collection until June 30, 1988.

List of Subjects in 7 CFR Part 226

Day care, Food assistance programs, Grant programs—Health, Infants and children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, the Department is proposing to amend 7 CFR Part 226 as follows:

PART 226—CHILD CARE FOOD PROGRAM

1. The authority citation for Part 226 continues to read as follows:

Authority: Secs. 326 and 361, Pub. L. 99–500 and 99–591, 100 Stat. 1783 and 3341 (42 U.S.C. 1760 and 1766); secs. 803, 810, and 820, Pub. L. 97–35, 95 Stat. 521–535 (42 U.S.C. 1758, 1766); sec. 2, Pub. L. 95–627, 92 Stat. 3603 (42 U.S.C. 1766); sec. 10, Pub. L. 89–642, 80 Stat. 889 (42 U.S.C. 1779), unless otherwise noted.

§ 226.6 [Amended]

2. In § 226.6, paragraph (o) is amended by removing the date "January 1, 1988" and adding in its place "June 30, 1988."

Date: September 11, 1967.

Anna Kondratas,

Administrator.

[FR Doc. 87–21520 Filed 9–16–87; 8:45 am]

BILLING CODE 3410–30–M

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 86–347]

Movement of Citrus Fruit From Florida

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule and notice of public hearings.

SUMMARY: Certain fruit (primarily citrus) may now be moved interstate from areas quarantined because of citrus canker, but only to areas of the United States that are not commercial citrus-producing areas. We propose to allow this fruit to be moved interstate to any destination in the United States, including commercial citrus-producing areas, if certain conditions are met. This action would relieve restrictions on the interstate movement of certain fruit from quarantined areas without increasing the risk of spreading citrus canker. We also propose to revise the conditions under which the fruit may be moved interstate from quarantined areas to areas that are not commercial citrus-producing areas. This action would help ensure that fruit moved interstate does not present a risk of spreading citrus canker.

DATES: Consideration will be given only to comments postmarked or received on or before November 2, 1987. We also will consider comments made at public hearings to be held on October 5, 1987, in Los Angeles, California; on October 7, 1987, in McAllen, Texas; and on October 9, 1987, in Lake Alfred, Florida.

ADDRESSES: Send an original and two copies of your 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 No. 86-347. Comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

The public hearings will be held at the following locations: (1) On October 5, 1987, at the Los Angeles Airport Marriott Hotel, 5855 West Century Boulevard, Los Angeles, California; (2) on October 7, 1987, at the Holiday Inn Civic Center, Jacaranda Room, Expressway 83 and 2nd St., McAllen Texas; and (3) on October 9, 1987, at Ben Hill Griffin Auditorium, Agricultural Research and Education Center, 700 Experiment Station Road, Lake Alfred, Florida.

FOR FURTHER INFORMATION CONTACT: Eddie W. Elder, Chief Operations Officer, Domestic and Emergency Operations Staff, Plant Protection and Quarantine, APHIS, USDA, Room 610, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; 301-436-6365.

SUPPLEMENTARY INFORMATION:

Public Hearings

A representative of the Animal and Plant Health Inspection Service will preside at the hearings. Any interested person may appear and be heard in person, by attorney, or by other representative.

The hearings will begin at 10 a.m. and are scheduled to end at 5 p.m. However, the hearings may be ended at any time after they begin if all persons desiring to speak have been heard. Anyone wishing to speak at a hearing should register with the presiding officer on the morning of the hearing, between 9 a.m. and 10 a.m., at the hearing room. Those registered will be heard in the order of their registration. Anyone else who wishes to speak at the hearing will be heard after the registered speakers. We ask that anyone who reads a statement provide two copies to the presiding officer at the hearing.

If the number of registered speakers and other participants at a hearing warrants it, the presiding officer may limit the time for each presentation so that everyone wishing to speak has the opportunity.

Background

Citrus canker is a plant disease caused by the bacterium *Xanthomonas campestris* pv. *citri* (Hasse) Dye. The disease is known to affect plants and plant parts, including fruit, of citrus and citrus relatives (Family Rutaceae). The disease can cause defoliation and other serious damage to the leaves and twigs of susceptible plants. The disease also may make the fruit of diseased plants unmarketable by causing lesions in the fruit or by causing the fruit to drop from a tree before reaching maturity. Citrus canker is an aggressive disease that can infect susceptible plants rapidly and lead to extensive economic losses in citrus growing areas.

The Citrus Canker subpart, contained in 7 CFR 301.75 and referred to below as the regulations, was established after citrus canker was discovered in Florida in August of 1984. To help prevent the spread of this disease, the regulations restrict the interstate movement of regulated articles from areas quarantined because of citrus canker. Regulated articles are defined in § 301.75-2 of the regulations as: Plants or plant parts, including fruit and seeds, of all species, clones, cultivars, strains, varieties, and hybrids of the genera *Citrus* and *Fortunella*, and all clones, cultivars, strains, varieties, and hybrids of the species *Poncirus trifoliata* (which includes lemon, pummelo, grapefruit, key lime, persian lime, tangerine, satsuma, tangor, citron, sweet orange, sour orange, mandarin, tangelo, ethrog, kumquat, limequat, calamondin, and trifoliate orange, among others), and any other product, article, or means of conveyance when an inspector determines that the product, article, or means of conveyance presents a risk of spreading citrus canker and the inspector has notified the person in possession of the product, article, or means of conveyance that it is subject to the provisions of these regulations.

In 1985, we proposed to amend the regulations by adding provisions to allow fruit and seed designated as regulated articles to be moved interstate with a certificate from a quarantined area to any area of the United States; by revising the provisions that allow fruit designated as a regulated article to be moved interstate with a limited permit from a quarantined area to areas of the United States that are not commercial citrus-producing areas; by adding provisions to allow fruit designated as a regulated article and originating outside a quarantined area to be moved interstate through a quarantined area; and by making related miscellaneous changes. The proposal was published in the **Federal Register** of June 25, 1985 (50 FR 26326-26334, Docket No. 85-339). We received 18 written comments on the proposal; 42 persons commented on the proposal during three public hearings. Most of the comments concerning the proposed provisions related to fruit moved interstate with a certificate or limited permit. After considering the comments, we adopted the proposed provisions, except those related to moving fruit interstate with a certificate and certain provisions related to moving fruit interstate with a limited permit. The final rule was published in the **Federal Register** of December 13, 1985 (50 FR 51228-51234, Docket No. 85-381). We stated in that final rule that the provisions we did not adopt were still under consideration and would be the subject of a future rulemaking document.

We are again proposing to add provisions to allow fruit designated as a regulated article to be moved interstate with a certificate to any area of the United States and to revise the provisions that allow fruit designated as a regulated article to be moved interstate with a limited permit. Our new proposal, which differs from the 1985 one, reflects our additional experience in dealing with citrus canker and incorporates suggestions made by commenters on the 1985 proposal.

Fruit Moved Interstate With a Limited Permit

Under the current regulations, fruit designated as a regulated article may be moved interstate from a quarantined area in two ways: With a permit for scientific or experimental purposes; or with a limited permit to areas of the

United States that are not commercial citrus-producing areas. Commercial citrus-producing areas are identified in § 301.75–4 of the regulations as American Samoa, Arizona, California, Florida, Guam, Hawaii, Northern Mariana Islands, Puerto Rico, Texas, Virgin Islands of the United States, and that portion of Louisiana south of a line formed by the following interstate highways: Beginning on Interstate 10 at the western boundary of the state, extending to the junction of Interstate 10 and Interstate 12 in East Baton Rouge Parish, extending on Interstate 12 to the junction of Interstate 10 and Interstate 12 in St. Tammany Parish, and extending on Interstate 10 to the Mississippi state line.

Under the current regulations, an inspector will issue a limited permit for the interstate movement of fruit designated as a regulated article only if the inspector:

(1) Determines that the fruit originated in an area found free of citrus canker based on surveys conducted by inspectors appointed by the Deputy Administrator;

(2) Determines that the fruit is free of leaves, litter, and stems other than stems less than one-inch long that are attached to the fruit;

(3) Determines that the fruit has been treated in accordance with current § 301.75–12(a) of the regulations;

(4) Determines that the fruit is to be moved in compliance with any additional emergency conditions necessary to prevent the spread of citrus canker; and

(5) Determines that the fruit is eligible for movement under all other federal domestic plant quarantines and regulations.

We propose to retain requirements (2) through (4) above, and to replace requirement (1) above with the following requirements:

First, we propose to allow fruit designated as a regulated article to be moved interstate with a limited permit only if an inspector determines there is no evidence that the grove from which the fruit is harvested has contained any citrus canker-infested or -exposed plants or plant parts within the past year. This requirement would help ensure that fruit moved interstate with a limited permit is free of citrus canker.

Second, we propose to require that groves be surveyed at specific times and in a specific manner. Survey requirements would be different for groves of 10 or more trees designated as a regulated article and for groves of fewer than 10 trees designated as a regulated article. (For the proposed grove surveys, we are interested only in trees that can bear fruit designated as a regulated article. We refer to these trees as "trees designated as a regulated article.")

For groves of 10 or more trees designated as a regulated article, an inspector would have to determine that the grove has been found free of citrus canker based on two surveys conducted as follows:

—Between one year and 90 days before harvest begins, an inspector must: examine all trees on the perimeter of the grove while driving by the trees at a speed of not more than 3 m.p.h.; examine, while on foot, at least 12 trees in high-risk areas of the grove (such as the grove entrance, the perimeter of the grove, and areas where the movement of people and equipment is concentrated); and examine, while on foot, a minimum of four mature trees or eight young trees in one randomly selected location in every 10 acres of the grove, or, if the grove is less than 10 acres, examine, while on foot, a minimum of four mature trees or eight young trees in one randomly selected location.

—No more than 90 days before harvest begins, an inspector must: Examine all trees in the outer two rows of the grove while driving by the trees at a speed of not more than 3 m.p.h.; examine, while on foot, at least 12 trees in high-risk areas of the grove (such as the grove entrance, the perimeter of the grove, and areas where the movement of people and equipment is concentrated); and examine, while on foot, a minimum of four mature trees or eight young trees in each of two randomly selected locations in every 10 acres of the grove, or, if the grove is less than 10 acres, examine, whi1e on foot, a minimum of four mature trees or eight young trees in each of two randomly selected locations.

At least one of the two surveys must be conducted during weather conditions (high temperatures and frequent rainfall) that an inspector determines are conducive to the development of citrus canker.

These requirements are necessary to ensure that groves are surveyed in a manner that will enable inspectors to detect citrus canker, if it exists in a grove, in the earliest possible stages of the disease.

For groves of fewer than 10 trees designated as a regulated article, an inspector would have to determine that the grove has been found free of citrus canker based on one survey conducted as follows:

No more than 30 days before the beginning of harvest, an inspector must walk through the grove and examine every tree.

We also propose to allow fruit harvested from a grove of fewer than 10 trees designated as a regulated article to be moved interstate to non-citrus-producing states with a limited permit only if the fruit is moved interstate directly to a household, with the intent that the fruit be consumed at, or by members of, that household.

We propose to require only one survey of groves of fewer than 10 trees, but two surveys of groves of 10 or more trees, for the following reason: Although ideally we would like all groves to be surveyed two times, regardless of the size of the grove, we do not have enough inspectors to conduct two surveys a year of every grove from which fruit designated as a regulated article could be shipped. In the State of Florida, the only area now quarantined because of citrus canker, thousands of individuals grow fruit designated as a regulated article in groves of fewer than 10 trees. Trees in these groves are often referred to as "dooryard" trees. Based on our experience with surveys for citrus canker in Florida, we have determined that we could not complete the required surveys if we subjected dooryard trees to the same two-survey requirement as groves of 10 or more trees.

We propose to require that the survey of groves of fewer than 10 trees be conducted no more than 30 days before harvest begins to minimize the time between survey and harvest that the trees could become exposed to or infested with citrus canker. Most groves of fewer than 10 trees are, literally, dooryard, or "backyard" trees whose owners may or may not take special precautions to prevent the trees from contracting diseases, including citrus canker. There is less risk of trees in larger groves becoming exposed to or infested with citrus canker between the second survey and the harvest because most of these larger groves are for profit and are, therefore, routinely managed for disease prevention. Also, we need to allow 90 days between the second survey and harvest in groves of 10 or more trees to allow time to schedule surveys. We would not be able to complete surveys of all the larger groves within 30 days of harvest. Surveys of groves of fewer than 10 trees do not take as long or require as many inspectors. Not only do the groves contain fewer trees, but many of these small groves are close together in residential areas and one inspector can survey many in a day.

However, because dooryard trees would be subject to only one survey, and because dooryard trees may or may not be managed for disease prevention in the same manner as larger, for-profit groves, we consider fruit from these trees to be at somewhat higher risk than fruit from larger groves for becoming exposed to or infested with citrus canker. Requiring that this fruit be moved directly to a household for consumption at, or by members of, that household would help ensure that the fruit does not present a risk of spreading citrus canker.

Fruit Moved Interstate With a Certificate

We propose to allow fruit designated as a regulated article to be moved interstate with a certificate to any area of the United States if an inspector:

(1) Determines that the fruit is harvested from a grove of 10 or more trees designated as a regulated article;

(2) Determines that the fruit is harvested from a grove that has not contained any infested or exposed plants or plant parts within the past two years;

(3) Determines that the fruit is harvested from a grove that an inspector has found free of citrus canker based on two surveys conducted as follows:

(i) Between one year and 90 days before harvest begins, an inspector must: examine all trees on the perimeter of the grove while driving by the trees at a speed of not more than 3 m.p.h.; examine, while on foot, at least 12 trees in high-risk areas of the grove (such as the grove entrance, the perimeter of the grove, and areas where the movement of people and equipment is concentrated); and examine, while on foot, a minimum of four mature trees or eight young trees in one randomly selected location in every 10 acres of the grove, or, if the grove is less than 10 acres, examine, while on foot, a minimum of four mature trees or eight young trees in one randomly selected location; and

(ii) No more than 90 days before harvest begins, an inspector must walk through the grove and examine: all trees on either side of the first middle (between the first two rows) and every fourth middle thereafter throughout the grove; and at least 12 trees in high-risk areas of the grove (such as the grove entrance, the perimeter of the grove, and areas where the movement of people and equipment is concentrated); and

(iii) At least one of the two surveys must be conducted during weather conditions (high temperatures and frequent rainfall) that an inspector determines are conducive to the development of citrus canker;

(4) Determines that the fruit is harvested from a grove that is at least one-half mile from any property that has contained infested or exposed plants or plant parts during the past two years;

(5) Determines that, within five miles of the grove from which the fruit is harvested, the following plants have been destroyed: (i) All infested plants; and (ii) Any exposed plants identified by an inspector as being at high risk for developing citrus canker. An inspector will determine whether exposed plants are at high risk for developing citrus canker by evaluating all of the circumstances related to the exposure, including, but not limited to, the following: The stage of maturity of the exposed plants at the time of exposure; the size and degree of infestation to which the plants were exposed; the proximity of the exposed plants to infested plants; the length of time the plants were exposed to infestation; and the strain of bacterium to which the plants were exposed;

(6) Determines that, during the past two years, the grove from which the fruit is harvested has received shipments of plants designated as regulated articles only from nurseries found free of citrus canker on three surveys conducted by an inspector not more than 90 days before each shipment (every plant designated as a regulated article in the nursery must be inspected on each survey);

(7) Determines that properties within five miles of the grove from which the fruit is harvested were surveyed and found free of infestation by an inspector at least one time during the past year as follows: (i) All properties that contain 10 or more plants designated as regulated articles and that are within five miles of the grove; (ii) All properties that contain one to nine plants designated as regulated articles and that are within one-half mile of the grove; and (iii) Twenty percent of the properties that contain one to nine plants designated as regulated articles and that are within one-half to five miles of the grove. The 20-percent sample must be distributed as evenly as possible over the area, with different samples inspected each year for five years;

(8) Determines that all personnel, vehicles, and equipment are treated in accordance with proposed § 301.75–12 (c) and (d) of the regulations upon entering the grove from which the fruit is harvested;

(9) Determines that the fruit and its containers are not mixed during picking, hauling before packing, or packing, with fruit that is designated as a regulated article but does not qualify for a certificate;

(10) Determines that the fruit is treated in accordance with § 301.75–12(a) of the regulations and then waxed;

(11) Determines that the fruit is packed in containers marked with a United States Department of Agriculture stamp that says "Certified under all applicable Federal or State cooperative domestic plant quarantines";

(12) Determines that the packed fruit is free of leaves, twigs, and other plant litter, except stems less than one-inch long that are attached to the fruit;

(13) Determines that the fruit is to be moved under any additional emergency conditions that may be imposed by the Deputy Administrator under the Federal Plant Pest Act to prevent the spread of citrus canker; and

(14) Determines that the fruit is eligible for movement under all other federal domestic plant quarantines and regulations applicable to the fruit.

The proposed requirements for treating personnel, vehicles, and equipment (requirement (8), above) are as follows:

All personnel must clean their hands with one of the following disinfectants upon entering the grove: Gallex 1027 Antimicrobial Soap; Hibiclens; Hibistat; Sani Clean Hand Soap; or Seventy Percent Isopropyl Alcohol. All vehicles and equipment zust be disinfected upon entering the grove by removing all leaves, twigs, fruit, and other plant debris from all areas of the equipment or vehicles, including in cracks, under chrome strips, and on the undercarriage of vehicles, and by wetting all surfaces (including the inside of boxes and trailers), to the point of runoff, with one of the following disinfectants: A 200-ppm chlorine solution with a pH of 6.0 to 7.5; a 0.2-percent solution of a quaternary ammonium chloride (QAC) compound; a solution of hot water and detergent, under high pressure (at least 30 pounds per square inch), at a minimum temperature of 160 °F.; or steam, at a minimum temperature of 160 °F. at the point of contact. These disinfectants have been demonstrated to be effective in destroying bacteria that cause citrus canker.

The proposed criteria for obtaining a certificate to move fruit interstate include all of the requirements for qualifying for a limited permit plus other, more stringent, requirements. These criteria would ensure that fruit moved under certificate would present minimal risk of having even low, undetectable levels of citrus canker.

We propose to issue certificates only for fruit harvested from groves containing 10 or more trees designated as a regulated article because we must

limit the number of groves that we will inspect for fruit certification. The proposed process of determining that fruit meets the requirements for moving interstate with a certificate would involve many hours of work by inspectors for each certificate issued. We have enough inspectors to perform this work if we stipulate that fruit will be eligible to move interstate with a certificate only if it is harvested from a grove containing 10 or more trees designated as a regulated article. However, we do not have enough inspectors, or the funds to hire and train enough inspectors, to issue certificates for fruit from the thousands of groves in Florida that contain fewer than 10 trees designated as a regulated article. Placing the cut-off at 10 trees would allow us, given our available personnel and funds, to issue the maximum number of certificates in accordance with the proposed requirements.

In addition, we propose to deny certificates for the interstate movement of fruit designated as a regulated article if the fruit is from the area composed of Manatee, Pinellas, or Sarasota counties, or from Hillsborough County south of State Road 60 until two years after the last infested plant in this area has been destroyed. These counties comprise the only area in Florida where the "A" strain of citrus canker has been found. The "A" strain of citrus canker is a very aggressive strain of the disease. This prohibition would provide additional assurance that fruit designated as a regulated article and moved interstate with a certificate is free of citrus canker. Confirmation of additional infestations of citrus canker in Florida might be cause for suspending the issuance of certificates in other areas of the state.

Definitions

We propose to revise the current definition for "Grove" to clarify the meaning of this term. We also propose to revise the definition of "Citrus canker" so that it accurately reflects current taxonomic nomenclature. We propose to add definitions for the following terms used in our proposal: "Exposed" and "Infested." In addition, we propose to revise the term "Infestation or infested" to read "Infestation"; however, the definition would remain the same.

Miscellaneous

We propose to remove footnotes 2 and 5 and all references to them because they are not necessary. Footnote 2 contains text from Section 105dd of the Federal Plant Pest Act, which gives the Secretary of Agriculture the authority to take emergency measures to prevent the dissemination of plant pests that are not prevalent in the United States. The footnote does not contain any information necessary to carry out the requirements of the regulations. Also, our authority to impose the regulations is contained in the authority citation for Subpart-Citrus Canker, and this authority citation includes 7 U.S.C. 150dd. Footnote 5 applies to the treatments listed in § 301.75–12. It states: "These treatments shall be monitored by inspectors in order to assure compliance with the treatment provisions." Inspectors monitor many activities governed by the regulations, not just the application of required treatments, to ensure compliance with the regulations. Since footnote 5 does not contain any special requirements related to monitoring of treatments, there appears to be no reason for this footnote.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this 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 the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Our proposal to issue certificates for fruit designated as regulated articles relieves restrictions on owners of groves that contain 10 or more trees designated as a regulated article. However, this proposal would affect only fruit (primarily citrus) that is moved interstate as fresh fruit. Most Florida fruit designated as a regulated article is processed within the State and is, therefore, not affected by this proposal. Less than 20 percent of Florida fruit designated as a regulated article is consumed as fresh fruit, and much of this is consumed within the State or exported out of the United States. Fruit consumed within the State of Florida or exported out of the state directly to another country also would not be affected by this proposal. Before 1984, only about one percent of Florida fruit designated as a regulated article has been moved interstate as fresh fruit to commercial citrus-producing areas of the United States. We do not expect that adoption of our proposal would cause any change in this percentage.

As explained earlier in this supplementary information, we do not have enough inspectors, or the funds to hire and train enough inspectors, to issue certificates for fruit from the thousands of groves in Florida that contain fewer than 10 trees designated as a regulated article. Stipulating that fruit will be eligible for a certificate only if it comes from a grove of 10 or more trees designated as a regulated article would allow us to issue the maximum number of certificates given our available personnel and funds. However, we do not expect this limitation to have any significant economic effect on groves of fewer than 10 trees designated as a regulated article because, historically, almost all of the fresh fruit moved interstate from Florida has been destined for areas of the United States that are not commercial citrus-producing areas. Fruit may be moved interstate with a limited permit to areas of the United States that are not commercial citrus-producing areas. We expect that most grove owners who can now move fruit interstate with a limited permit could continue to do so if our proposal is adopted.

Our proposed amendments to the requirements concerning limited permits would allow fruit from groves of fewer than 10 trees designated as a regulated article to be moved interstate with a limited permit only if the fruit is moved interstate directly to a household, with the intent that the fruit be consumed at, or by members of, that household. Most groves of fewer than 10 trees designated as a regulated article are on residential properties and are not maintained for profit. Generally, fruit from these trees is consumed locally or is delivered as gifts to relatives and friends. Therefore: we do not expect that adoption of our proposal would have any significant economic effect on owners of groves with 10 or fewer trees designated as a regulated article.

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

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), we have submitted the information collection provisions in this proposed rule to the Office of Management and Budget (OMB) for approval. You may

send written comments on these provisions to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS: Washington, DC 20503. Please send a copy of your comments to Steven B. Farbman, Assistant Director: Regulatory Coordination, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

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 7 CFR Part 301

Agricultural commodities, Citrus canker, Plant disease, Plant pests, Plants (Agriculture), Quarantine, Transportation.

Accordingly, we propose to amend Part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

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

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

§§ 301.75–7, 301.75–8, 301.75–9, 301.75–12 [Amended]

2. Footnotes 2 in § 301.75–7 and 5 in § 301.75–12 and all references to them would be removed, and footnotes 3 in § 301.75–8 and 4 in § 301.75–9 and all references to them would be renumbered 2 and 3, respectively.

3. In § 301.75–1, the term "Infestation or infested" would be revised to read "Infestation" and the definition would be revised; the definitions for "Citrus canker" and "Grove" would be revised; and definitions for "Exposed" and "Infested" would be added in alphabetical order to read as follows:

§ 301.75–1 Definitions.

* * * * *

Citrus canker. The plant disease caused by the bacterium *Xanthomonas campestris* pv. *citri* (Hasse) Dye.

Exposed. Suspected by an inspector of containing the bacterium that causes citrus canker because of proximity to an infestation.

Grove. Any stand of trees maintained for the purpose of producing fruit and separated from other trees by a boundary, such as a fence, stream, road, canal, irrigation ditch, hedgerow, or open space, that is identifiable to an inspector as the boundary of the grove.

Infestation. The presence of citrus canker or the existence of circumstances that make it reasonable for an inspector to believe that citrus canker is present.

Infested. Containing the bacterium that causes citrus canker.

* * * * *

4. In § 301.75–7, paragraphs (b), (c), (d), (e), and (f) would be redesignated as paragraphs (c), (d), (e), (f), and (g); new paragraphs (b) and (h) would be added; redesignated paragraph (c) would be revised and headings would be added before the introductory text in paragraph (a) and in redesignated paragraphs (d), (e), (f), and (g) to read as follows:

§ 301.75–7 Issuance and cancellation of certificates and limited permits.

(a) *Certificates for interstate movement of seed.* * * *

(b) *Certificates for interstate movement of fruit.* Except as specified in paragraph (h) of this section, an inspector will issue a certificate for the interstate movement of fruit designated as a regulated article if an inspector:

(1) Determines that the fruit is harvested from a grove of 10 or more trees designated as a regulated article;

(2) Determines that the fruit is harvested from a grove that has not contained any infested or exposed plants or plant parts within the past two years;

(3) Determines that the fruit is harvested from a grove that an inspector has found free of citrus canker based on two surveys conducted as follows:

(i) Between one year and 90 days before harvest begins, an inspector must: Examine all trees on the perimeter of the grove while driving by the trees at a speed of not more than 3 m.p.h.; examine, while on foot, at least 12 trees in high-risk areas of the grove (such as the grove entrance, the perimeter of the grove, and areas where the movement of people and equipment is concentrated); and examine, while on foot, a minimum of four mature trees or eight young trees in one randomly selected location in every 10 acres of the grove, or, if the grove is less than 10 acres, examine, while on foot, a minimum of four mature trees or eight young trees in one randomly selected location; and

(ii) No more than 90 days before harvest begins, an inspector must walk through the grove and examine: All trees on either side of the first middle (between the first two rows) and every fourth middle thereafter throughout the grove; and at least 12 trees in high-risk areas of the grove (such as the grove entrance, the perimeter of the grove, and areas where the movement of people and equipment is concentrated); and

(iii) At least one of the two surveys must be conducted during weather conditions (high temperatures and frequent rainfall) that an inspector determines are conducive to the development of citrus canker;

(4) Determines that the fruit is harvested from a grove that is at least one-half mile from any property that has contained infested or exposed plants or plant parts during the past two years;

(5) Determines that, within five miles of the grove from which the fruit is harvested, the following plants have been destroyed:

(i) All infested plants; and

(ii) Any exposed plants identified by an inspector as being at high risk for developing citrus canker.

An inspector will determine whether exposed plants are at high risk for developing citrus canker by evaluating all of the circumstances related to the exposure, including, but not limited to, the following: The stage of maturity of the exposed plants at the time of exposure; the size and degree of infestation to which the plants were exposed; the proximity of the exposed plants to infested plants; the length of time the plants were exposed to infestation; and the strain of bacterium to which the plants were exposed;

(6) Determines that, during the past two years, the grove from which the fruit is harvested has received shipments of plants designated as regulated articles only from nurseries found free of citrus canker on three surveys conducted by an inspector not more than 90 days before each shipment (every plant designated as a regulated article in the nursery must be inspected on each survey);

(7) Determines that properties within five miles of the grove from which the fruit is harvested were surveyed and found free of infestation by an inspector at least one time during the past year as follows: (i) All properties that contain 10 or more plants designated as regulated articles and that are within five miles of the grove; (ii) All properties that contain one to nine plants designated as regulated articles and that are within one-half mile of the grove; and (iii) Twenty percent of the properties that contain one to nine plants designated as regulated articles and that are within one-half to five miles of the grove. The 20-percent sample must be distributed as evenly as possible over the area, with different samples inspected each year for five years;

(8) Determines that all personnel, vehicles, and equipment are treated in

accordance with § 301.75–12 (c) and (d) of this subpart upon entering the grove from which the fruit is harvested;

(9) Determines that the fruit and its containers are not mixed during picking, hauling before packing, or packing, with fruit that is designated as a regulated article but does not qualify for a certificate;

(10) Determines that the fruit is treated in accordance with § 301.75–12(a) of this subpart and then waxed;

(11) Determines that the fruit is packed in containers marked with a United States Department of Agriculture stamp that says "Certified under all applicable Federal or State cooperative domestic plant quarantines";

(12) Determines that the packed fruit is free of leaves, twigs, and other plant litter, except stems less than one-inch long that are attached to the fruit;

(13) Determines that the fruit is to be moved under any additional emergency conditions that may be imposed by the Deputy Administrator under the Federal Plant Pest Act to prevent the spread of citrus canker; and

(14) Determines that the fruit is eligible for movement under all other federal domestic plant quarantines and regulations applicable to the fruit.

(c) *Limited permits for interstate movement of fruit.* An inspector will issue a limited permit for the interstate movement of fruit designated as a regulated article if an inspector:

(1) Determines that the fruit is harvested from a grove that has not contained any infested or exposed plants or plant parts within the past year;

(2) Determines that the fruit is harvested from a grove that an inspector has found free of citrus canker based on surveys conducted as follows:

(i) For a grove of 10 or more trees designated as a regulated article:

(A) Between one year and 90 days before harvest begins, an inspector must: Examine all trees on the perimeter of the grove while driving by the trees at a speed of not more than 3 m.p.h.; examine, while on foot, at least 12 trees in high-risk areas of the grove (such as the grove entrance, the perimeter of the grove, and areas where the movement of people and equipment is concentrated); and examine, while on foot, a minimum of four mature trees or eight young trees in one randomly selected location in every 10 acres of the grove, or, if the grove is less than 10 acres, examine, while on foot, a minimum of four mature trees or eight young trees in one randomly selected location; and

(B) No more than 90 days before harvest begins, an inspector must: Examine all trees in the outer two rows of the grove while driving by the trees at a speed of not more than 3 m.p.h.; examine, while on foot, at least 12 trees in high-risk areas of the grove (such as the grove entrance, the perimeter of the grove, and areas where the movement of people and equipment is concentrated); and examine, while on foot, a minimum of four mature trees or eight young trees in each of two randomly selected locations in every 10 acres of the grove, or, if the grove is less than 10 acres, examine, while on foot, a minimum of four mature trees or eight young trees in each of two randomly selected locations; and

(C) At least one of the two surveys must be conducted during weather conditions (high temperatures and frequent rainfall) that an inspector determines are conducive to the development of citrus canker.

(ii) For a grove of fewer than 10 trees designated as a regulated article, an inspector must walk through the grove and examine each tree within 30 days before harvest begins.

(3) Determines that the fruit is treated in accordance with § 301.75–12(a) of this subpart;

(4) Determines that the fruit is free of leaves, twigs, and other plant litter, except stems less than one-inch long that are attached to the fruit;

(5) Determines that the fruit is to be moved interstate under any additional emergency conditions that may be imposed by the Deputy Administrator under the Federal Plant Pest Act to prevent the spread of citrus canker;

(6) Determines that the fruit is eligible for interstate movement under all other federal domestic plant quarantines and regulations applicable to the fruit; and

(7) Determines that fruit harvested from a grove of fewer than 10 trees designated as a regulated article is to be moved interstate directly to a household, with the intent that the fruit will be consumed at, or by members of, that household.

(d) *Issuance of certificates and limited permits.* * * *

(e) *Withdrawal of certificates and limited permits.* * * *

(f) *Calamondin plants.* * * *

(g) *Container-grown calamondin and kumquat nursery plants.* * * *

(h) *Fruit ineligible for interstate movement with a certificate.* Fruit designated as a regulated article from the area composed of Manatee, Pinellas, and Sarasota counties, and Hillsborough County south of State Road 60 will not be eligible for interstate movement with a certificate until two years after the last infested plant in the area has been destroyed.

5. In § 301.75–12, new paragraphs (c) and (d) would be added to read as follows:

§ 301.75–12 Treatments.

* * * * *

(c) *Personnel.* All personnel must clean their hands using one of the following disinfectants:

(1) Gallex 1027 Antimicrobial Soap;

(2) Hibiclens;

(3) Hibistat;

(4) Sani Clean Hand Soap; or

(5) Seventy Percent Isopropyl Alcohol.

(d) *Vehicles and equipment.* Vehicles and equipment must be disinfected by removing all leaves, twigs, fruit, and other plant debris from all areas of the equipment or vehicles, including in cracks, under chrome strips, and on the undercarriage of vehicles, and by wetting all surfaces (including the inside of boxes and trailers), to the point of runoff, with one of the following disinfectants:

(1) A 200-ppm chlorine solution with a pH of 6.0 to 7.5;

(2) A 0.2-percent solution of a quaternary ammonium chloride (QAC) compound;

(3) A solution of hot water and detergent, under high pressure (at least 30 pounds per square inch), at a minimum temperature of 160 °F; or

(4) Steam, at a minimum temperature of 160 °F. at the point of contact.

Done at Washington, DC, this 11th day of September, 1987.

W.F. Helms,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 87–21295 Filed 9–16–87; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF ENERGY

Office of the Secretary

10 CFR Part 600

Financial Assistance; Revised Policy on Restricting Eligibility for Financial Assistance Awards

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: The Department of Energy (DOE) today proposes a limited revision of Subparts A and B of the Financial Assistance Rules, 10 CFR Part 600, to establish an additional method by which eligibility to receive a DOE financial assistance award may, under appropriate circumstances, be restricted to a single applicant and to provide

additional guidance concerning the documentation required for noncompetitive awards. To address the issue of noncompetitive financial assistance in a more comprehensive way, the Department of Energy is issuing this proposed rule.

DATE: Written comments on the proposed rule must be received by October 19, 1987.

ADDRESS: Comments should be addressed to: James J. Cavanagh, Director, Business and Financial Policy Division (MA-422), Procurement and Assistance Management Directorate, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Edward F. Sharp, Business and Financial Policy Division (MA-422), U.S. Department of Energy, Washington, DC 20585, (202) 586–8192.

Christopher Smith, Office of the Assistant General Counsel for Procurement and Finance (GC-34), U.S. Department of Energy, Washington, DC 20585, (202) 586–1526.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Department of Energy (DOE) is today proposing to amend its Financial Assistance Rules to provide an additional circumstance under which noncompetitive financial assistance awards; i.e., grants and cooperative agreements, may be made and to include guidance related to those awards.

DOE prefers to award discretionary financial assistance on the basis of solicitations which provide for the maximum amount of competition feasible (see § 600.6(b)). Today's proposal does not change that preference. Nevertheless, it is DOE's experience that the maximum amount of competition is not always appropriate or feasible and that administratively controlled methods of funding noncompetitively must be available to the Department.

At present, the Financial Assistance Rules explicitly provide two methods by which the Department may make a financial assistance award under circumstances of restricted eligibility: Acceptance of an unsolicited application on the basis of selection criteria oriented to a research project (§ 600.14(e)), or in response to applications received under a solicitation which restricts eligibility to a class(es) of eligible applicants (§ 600.7(b)) (limited competition); e.g., a solicitation to which only universities having nuclear reactors could respond. These two categories of restricted eligibility do not, however, provide a clear basis for restricting eligibility and making an award to only one applicant (noncompetitive). Over the years, DOE has found it necessary to occasionally restrict eligibility to one applicant.

Therefore, DOE is proposing to establish administrative review criteria which are to be used in situations where it is necessary or appropriate to restrict eligibility noncompetitively to only one applicant. The criteria which shall apply to circumstances in which eligibility is restricted to a single applicant will be contained in a determination of noncompetitive financial assistance (DNCFA).

II. Proposed Changes to 10 CFR Part 600

Section 600.6 is proposed to be amended by revising paragraph (a) and adding a new paragraph (b) to distinguish the bases for making new and renewal discretionary financial assistance awards. Paragraph (a)(2) would be revised to clarify that the selection criteria found at § 600.14(e)(1) must be satisfied in order for a new award to be made under that authority. In addition § 600.6 would be revised by adding new paragraphs (a)(4) and (a)(5) which identify the applications which use a DNCFA as a basis for making a discretionary financial assistance award.

Section 600.7(b) would be revised by redesignating existing paragraph (b) as paragraph (b)(1) and be creating a new paragraph (b)(2) which would set forth the management controls over the added category of authorized noncompetitive assistance awards. Those controls include justification criteria and documentation, signature, and publication requirements (including the addition of a 14-day public comment period).

Section 600.14 would be amended by the redesignation of existing paragraph (f) as paragraph (g), and existing paragraph (g) as paragraph (h) and by inserting a new paragraph (f) to specify the documentation, signature, and publication requirements (including a 14-day public comment period) for the justification for acceptance of an unsolicited application. DOE believes that it is desirable that the public be aware of these requirements.

Section 600.106 would be amended by revising paragraph (c) to reflect the policies of § 600.7(b)(2) for determinations of noncompetitive financial assistance.

III. Review Under Executive Order 12291

Today's proposal was reviewed under Executive Order 12291 (February 17, 1981). DOE has concluded that the rule is not a "major rule" because its promulgation will not 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 United States based enterprises to compete in domestic or export markets.

In accordance with requirements of the Executive Order, this rulemaking has been reviewed by the Office of Management and Budget (OMB).

IV. Review Under the Regulatory Flexibility Act

These proposed regulations were reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, 94 Stat. 1164, which requires preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities; i.e., small businesses, small organizations, and small governmental jurisdictions. DOE has concluded that the proposed rule would only affect small entities as they apply for and receive grants and does not create additional economic impacts on small entities. DOE certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

V. Review Under the Paperwork Reduction Act

No information collection or recordkeeping requirements are imposed upon the public by this proposed rulemaking. Accordingly, no OMB clearance is required under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, *et seq.*, or OMB's implementing regulations at 5 CFR Part 1320.

VI. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of these wholly procedural rules clearly would not represent a major Federal action having significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, *eq seq.* (1976)), the Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), and the DOE guidelines (10 CFR Part 1021) and, therefore, does not require an environmental impact statement pursuant to NEPA.

VII. Public Comments

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposed changes set forth in this notice. Three copies of written comments should be submitted to the address indicated in the "ADDRESS" section of this notice. All comments received will be available for public inspection in the DOE Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, between the hours of 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. All written comments received by October 19, 1987, will be fully considered prior to publication of a final rule resulting from this proposal. Any information you consider to be confidential must be so identified and submitted in writting, one copy only. DOE reserves the right to determine the confidential status of the information and to treat it according to our determination.

The Department has concluded that this proposed rule does not involve a substantial issue of fact or law and that the proposed rule should not have a substantial impact on the nation's economy or a large number of individuals or businesses. Therefore, pursuant to Pub. L. 95–91, the DOE Organization Act, and the Administrative Procedure Act (5 U.S.C. 553), the Department does not plan to hold a public hearing on this proposed rule.

List of Subjects in 10 CFR Part 600

Administrative practice and procedure, Cooperative agreements/energy, Copyright, Debarment and Suspension, Educational institutions, Energy, Grants/energy, Hospitals, Indian tribal governments, Individuals, Inventions and patents, Nonprofit organizations, Reporting requirements, Small businesses.

In consideration of the foregoing, the Department of Energy hereby proposes to amend Chapter II of Title 10 of the Code of Federal Regulations by amending Part 600 as set forth below.

Issued in Washington, DC, September 8, 1987.

Berton J. Roth,

Director, Procurement and Assistance Management Directorate.

For the reasons set out in the preamble, Part 600 of Chapter II, Title 10 of the Code of Federal Regulations is proposed to be amended as follows:

PART 600—[AMENDED]

1. The authority citation for Part 600 continues to read as follows:

Authority: Sec. 644 and 646, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254 and 7256); Pub. L. 97–258, 96 Stat. 1003–1005 (31 U.S.C. 6301–6308).

2. Section 600.6 is revised to read as follows:

§ 600.6 Discretionary awards.

(a) DOE may make new discretionary financial assistance awards on the basis of:

(1) Applications submitted in response to a financial assistance solicitation (See § 600.9);

(2) Unsolicited applications satisfying the selection criteria of § 600.14(e)(1);

(3) Applications submitted in response to a Program Opportunity Notice or Program Research and Development Announcement (see 48 CFR 917.72 and 917.73) if, after an application is selected for award, DOE determines that a grant or cooperative agreement is the appropriate award instrument;

(4) An application for an award to be made on a noncompetitive basis under § 600.7(b)(2); or

(5) Unsolicited applications which do not satisfy the selection criteria of § 600.14(e)(1)(ii) if such applications satisfy the selection criteria of § 600.7(b)(2)(i).

(b) DOE may make renewal discretionary financial assistance awards on the basis of:

(1) Applications submitted in response to a financial assistance solicitation; or

(2) An application from an incumbent recipient if the award has been justified in accordance with § 600.7(b)(2).

(c) DOE shall solicit applications for discretionary financial assistance in a manner which provides for the maximum amount of competition feasible.

3. Section 600.7 is amended by revising paragraph (b) to read as follows:

§ 600.7 Eligibility.

* * * * *

(b)(1) *Restricted eligibility.* If DOE restricts eligibility in a solicitation or program rule to less than all otherwise eligible applicants under paragraph (a) of this section, an explanation of why the restriction of eligibility is considered necessary shall be included in the solicitation or program rule. If the aggregate amount of DOE funds available for award under a solicitation other than a program rule exceeds $250,000, such restriction of eligibility shall be supported by a written determination initiated by the responsible program office, approved by the responsible program Assistant Secretary or his or her designee, who shall be at an organizational level not less than two levels above that of the project officer, and the Contracting Officer and concurred in by legal counsel. If the aggregate amount of DOE funds available for award is $250,000 or less, the Head of Contracting Activity (HCA) for the awarding office that will be issuing the solicitation shall be the approving official for the written determination which is required by this paragraph, and which shall be concurred in by legal counsel. Legal counsel may waive the concurrence requirement.

(2) *Noncompetitive financial assistance.* DOE may award a grant or cooperative agreement on a noncompetitive basis (other than as a result of the acceptance of an unsolicited application meeting the selection criteria of § 600.14(e)(1)(ii) or an application for a continuation award in accordance with § 600.106(b)) only if the application satisfies one or more of the selection criteria in paragraph (b)(2)(i) of this section and is supported by a determination of noncompetitive financial assistance prepared in accordance with the provisions of paragraphs (b)(2) (ii) and (iii) of this section. In addition, an announcement of the intent to make a noncompetitive financial assistance award and an explanation of why a nomcompetitive financial assistance award is necessary shall be published in the **Federal Register** at least 14 calendar days prior to making an award. Public comments (or inquiries) to this announcement must be resolved by the DOE office issuing such announcement. Any such noncompetitive financial assistance is not subject to the solicitation requirements of § 600.9.

(i) *Criteria for justifying noncompetitive financial assistance.* In order for a noncompetitive award to be made under the authority of paragraph

(b)(2) of this section, it must satisfy one or more of the following selection criteria in addition to the types of factors listed in § 600.14(d):

(A) The activity to be funded is necessary to the satisfactory completion of, or is a continuation or renewal of, an activity presently being funded by DOE or another Federal agency, and for which competition for support would have a significant adverse effect on continuity or completion of the activity.

(B) The activity(ies) is (are) being or would be conducted by the applicant using its own resources or those donated or provided by third parties; however, DOE support of that activity would enhance the public benefits to be derived and DOE knows of no other entity which is conducting or is planning to conduct such an activity(ies).

(C) The applicant is a unit of government and the activity to be supported is related to performance of a governmental function within the subject jurisdiction, thereby precluding DOE provision of support to another entity.

(D) The applicant has exclusive domestic capability to perform the activity successfully, based upon unique equipment, proprietary data, technical expertise, or other such unique qualifications.

(E) The applicant implements an agreement between the United States Government and a foreign government to fund a foreign applicant.

(F) Time constraints associated with a public health, safety, or welfare or national security requirement preclude competition.

(G) The responsible Assistant Secretary, with the concurrence of the Director, determines that a noncompetitive award is in the public interest. This authority may not be delegated.

(ii) *Documentation requirements.* A determination of noncompetitive financial assistance (normally prepared by the responsible program official (project officer)) is required to explain the basis for the proposed noncompetitive award. The determination, the purpose of which is to justify funding on a noncompetitive basis, shall be placed in the award file and must, as a minimum, include the following information:

(A) Name of the sponsoring program office and the awarding office, the type of award proposed (grant or cooperative agreement), and the proposed recipient.

(B) A description of the nature of the financial assistance to be provided (e.g. research grant, conference grant, etc.), the amount and availability of DOE funds required, any cost sharing proposed or required, and the statutory authority for the proposed award.

(C) A statement of whether the application was solicited or unsolicited and the nature of any significant preapplication contact between the applicant and the Department. If received on an unsolicited basis, a statement of why the application does not meet the selection criteria of § 600.14(e)(1).

(D) To the extent relevant, a discussion of the programmatic evaluation conducted and the results of that evaluation, including the overall merit and relevance to the DOE mission, the anticipated objectives and probability of success in meeting them, and the quality of the applicant's personnel and facilities.

(E) A brief description of the public purpose of support or stimulation to be served by the proposed award and, in nontechnical terms, identify any particular significance or specialized character of the activity proposed to be funded.

(F) A statement of which one(s) of the criteria in paragraph (b)(2)(i) of this section is (are) being relied upon to justify the action and an explanation in general, nontechnical detail why each such criterion applies.

(iii) *Approval requirements.* Except as provided below, all determinations of noncompetitive financial assistance under this paragraph (b)(2) must be approved, prior to award, by the initiating program official (project officer), the responsible program Assistant Secretary or his or her designee, who shall be not less than two organizational levels above that of the project officer, and the Contracting Officer, and must be concurred in by legal counsel. The HCA will be the approving official for a proposed noncompetitive financial assistance award under any program which has been formally assigned to an office under his or her cognizance or, for any other such award, if the amount of the proposed award (DOE funds) is $100,000 or less. The requirement for legal counsel concurrence also applies to any determination under this paragraph (b)(2) signed by an HCA. Legal counsel may waive the concurrence requirement for a particular award or class of awards. The signatures required by this paragraph must be affixed to the determination document.

* * * * *

4. Section 600.14 is amended by redesignating paragraphs (f) and (g) as (g) and (h) and revising them, and by inserting a new paragraph (f) to read as follows:

§ 600.14 Unsolicited applications.

* * * * *

(f) *Justification for acceptance of an unsolicited application.* Prior to making an award on the basis of acceptance of an unsolicited application, a justification document, which describes the results of the general evaluation conducted in accordance with paragraph (d) of this section and which addresses the selection criteria in paragraph (e)(1) of this section, must be prepared and completed for the award file. The justification must be prepared and signed by the initiating program official (project officer), and approved by the responsible program Assistant Secretary or his or her designee, and the contracting officer. The HCA will serve as the approving official if the proposed award is under a program which has been formally assigned to an office under his or her cognizance or, for any other such proposed award, if the amount of the proposed award is $100,000 or less. In addition, the concurrence of legal counsel in the justification is required for all awards for which the DOE share is expected to be more than $250,000 or such lower amount as legal counsel may determine. Further, an announcement of the intent to award based on an unsolicited application and an explanation of why such an award is being made shall be published for public comment in the **Federal Register** at least 14 calendar days prior to making an award.

(g) *Funding.* An award based on an unsolicited application may be made only if sufficient appropriated funds are available.

(h) *Unsuccessful applications.* DOE shall promptly notify in writing each applicant whose application does not satisfy the requirements of this section. DOE will return unsuccessful unsolicited applications only if requested by the applicant. This request may be made at the time of application or up to 30 days after the date of the written notification required by this paragraph.

5. Section 600.106 is amended by revising paragraph (c) to read as follows:

§ 600.106 Funding.

* * * * *

(c) *Renewal awards.* Discretionary renewal awards may be made either on the basis of a solicitation or on a noncompetitive basis. If DOE proposes to restrict eligibility for a discretionary renewal award to the incumbent grantee, the noncompetitive award must be justified in accordance with § 600.7(b)(2). Renewal applications must be submitted no later than 5 months

prior to the scheduled expiration of the project period unless a program rule or other published instruction establishes a different application deadline. Before DOE may make a renewal award for a formula grant, the grantee must submit a revised or amended state plan in accordance with program rules or other instructions from DOE.

[FR Doc. 87-21463 Filed 9-16-87; 8:45 am]
BILLING CODE 6450-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No 33-6740; 34-24886; 35-24457; 39-2114; IC-15967; IA-1081; File No. S7-32-87]

Proposal for Expedited Publication of Interpretative, No-Action, and Certain Exemption Letters

AGENCY: Securities and Exchange Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Securities and Exchange Commission ("Commission") is proposing for comment amendments to Rule 81 (17 CFR 200.81) under its regulations on Information and Reqeusts. The proposed amendments would, with certain exceptions, provide for the expedited publication of interpretative and no-action correspondence at the time the response is sent or given to the requesting party, unless temporary confidential treatment is granted. In addition, the Commission is proposing to codify the application of the rule to certain exemption letters. The Commission believes that more timely release of the staff's views will assist the public in its understanding of significant questions arising under the federal securities laws.

DATE: Comments should be received on or before October 19, 1987.

ADDRESS: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Comment letters should refer to File No. S7-32-87. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Michael Hyatte or Kenneth L. Wagner, (202) 272-2573, Office of Chief Counsel, Division of Corporation Finance; Nancy J. Burke, (202) 272-2880, Office of Legal Policy and Trading Practices, Division of Market Regulation; Gerald T. Lins, (202) 272-2030, Office of Chief Counsel, Division of Investment Management; Securities and Exchange Commission, 450 Fifth St. NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: Under Rule 81 as adopted on October 29, 1970,[1] interpretative and no-action letters and the related correspondence requesting the staff's views normally are made available for public inspection and copying 30 days after the staff's response has been sent or given to the requesting party. In appropriate circumstances, Rule 81(b) permits confidential treatment of the letter and request for up to 90 days beyond the 30 day period.

In light of its experience, the Commission believes that amendments to the rule should be considered to permit the more timely publication of these letters. Under the proposals announced today, the Commission's procedure for the release of interpretative and no-action requests and the staff's responses thereto would be changed to allow routinely for public availability of such correspondence as soon as practicable after the release of the response to the requesting party. These procedures would apply to all interpretative, no-action and exemptive letters relating to any statute administered by the Commission or any rule or regulation thereunder, with the exception of letters relating to the trading practices rules [2] under the Securities Exchange Act of 1934 ("Exchange Act").[3] The amended rule would not change the maxiumu duration (120 days) for confidential treatment available under Rule 81 or the standards for granting such treatment. Additionally, the rule is proposed to be amended to codify the staff's practice of applying Rule 81 procedures to certain Exchange Act exemption letters.

I. Discussion

The Commission is proposing amendments to § 200.81 of the Code of Federal Regulations (17 CFR 200.81) to allow more timely public inspection of requests for interpretative and no-action advice and the staff's responses to the requests. Since 1970, Rule 81 has provided for publication of interpretative and no-action correspondence 30 days after the staff has sent or given its response to the requesting party. Upon the request of the person seeking the staff's views, Rule 81(b) permits temporary confidential treatment of the correspondence for an additional 90 days in appropriate circumstances.

In the Commission's experience, there is substantial public interest in the staff's interpretative and no-action letters. While these informal letters are not expressions of the Commission's substantive views, they are relied on to provide guidance on various applications of the federal securities laws and rules thereunder,[4] particularly with respect to new transactions and securities. In the recent past, the Commission's staff, recognizing widely held public interest in the staff's views on particular issues, has made certain interpretation and no-action positions immediately available to the public after the permission of the requesting party had been obtained.[5] In addition to

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[1] Release No. 33-5098 (36 FR 2600). Before the adoption of Rule 81, no-action and interpretative letters usually were not made available to the public. The rule became effective for all such letters responding to requests made on or after December 1, 1970.

[2] *See* note 8, *infra*.

[3] 15 U.S.C. 78a *et seq*. The proposed amendments to rule 81 would continue to provide for 30-day confidential treatment for such letters.

[4] "[M]uch of what is known about the practical uses and permissible application of the 1933 Act exemptions has come from correspondence between attorneys and SEC staff personnel culminating in so-called 'no-action' letters." Hicks, *Exempted Transactions Under the Securities Act of 1933*, § 1.01[5] (1985 Rev.).

[5] The range of subjects where the staff has undertaken this practice has been broad, covering matters including improved methods of disclosure, issues raised by novel securities and distribution techniques, unsettled interpretative questions of long standing, and questions of compliance raised by changes in law other than federal securities regulation. Letters issued by the Division of Corporation Finance under this procedure include *General Motors* (January 16, 1987) and *McKesson Corp.* (April 15, 1987) (new techniques in annual reports to security holders); *Skadden, Arps, Slate, Meagher & Flom* (January 7, 1987) (registration of shareholder rights plans); *College Retirement Equities Fund* (February 18, 1987 and June 4, 1987) (no integration of institutional placements in United States with simultaneous overseas public financing); *E.F. Hutton* (December 3, 1985) and *Bateman, Eichler, Hill, Richards, Inc.* (December 3, 1985) (definition of "general solicitation" under Regulation D); *Verticom* (February 2, 1986) (interpretation of Rule 152 (17 CFR 230.152)); and *Baron Data Systems and Spectra-Physics* (December 2, 1986) and *American Bar Association* (Rule 16b-3 (17 CFR 240.16b-3) issues raised by the Tax Reform Act of 1986). Letters issued by the Division of Market Regulation under this procedure include *Trident Securities, Inc.* April 13, 1987) (account debit arrangement in contingency offering); *C.H. Beazer (Holdings) PLC* (May 27, 1987) (Rule 10b-6 (17 CFR 240.10b-6) exemption for British issuer with significant market capitalization, share turnover and number of market makers); *Tektronix, Inc.* (June 19, 1987) (tender offer must specify exact number of securities sought); and *Banco Central, S.A.* (June 30, 1987) (Rule 10b-6 exemption for Spanish issuer that makes market in its own securities). Letters issued by the Division of Investment Management under this procedure include *John Nuveen & Co. Incorporated* (November 18, 1986) (no federal requirement that funds hold

Continued

providing more timely guidance, earlier publication could reduce the number of duplicative requests for staff advice in the interpretative area and in cases where the staff has refused to provide a no-action position. Earlier publication would also help to alleviate possible confusion regarding the public availability dates of interpretative and no-action letters,[6] as well as eliminate the administrative burden associated with present procedures for providing expedited availability of such letters.[7]

Under the proposed amendment, correspondence requesting interpretative, no-action or exemptive advice and the staff's response thereto would be available, with limited exceptions, for public inspection and copying as soon as practicable after the response is first sent or given to the requesting party. This would be accomplished by providing such correspondence to the Commission's Public Reference Room after the response is mailed or given to the requesting party.

The rule would continue to provide for a 30-day confidentiality period for requests relating to Rules 10b–6, 10b–7, 10b–8, 10b–13 and 13e–4 under the Exchange Act.[8] Requests for interpretative, no-action or exemption positions under those rules frequently involve sensitive issues that might not be publicly disclosed as of the date of the response letter. Accordingly, the Commission is of the view that Rule 81 should continue to provide an automatic 30-day period of confidentiality for responses to requests concerning such rules.[9] In situations where a no-action or interpretative request relates to both the trading practices rules and other statutes or rules administered by the Commission, the 30-day confidentiality period would apply to the entire request and the staff's response thereto.[10]

Requesting parties and their counsel would continue to be able to prevent premature public disclosure of sensitive business information by seeking confidential treatment under the mechanisms of Rule 81(b). Rule 81(b) would be amended to provide temporary confidential treatment of the correspondence for a period of time not exceeding 120 days after the date the response is first sent or given to the requesting party,[11] thus preserving 120 days as the maximum duration of confidential treatment under the rule.[12]

Where a party requests confidential treatment for any period the material will continue to be held confidential for 30 days following notification of a rejection of such request in order to give the requester an opportunity to withdraw the letter as specified in Rule 81(b). The staff may, in fact, notify requesters of such a denial even before the letter is substantively processed. This would result in the 30 days running concurrently with the staff's consideration of the substance of the letter.

Currently, Rule 81 expressly covers no-action and interpretative letters. However, the staff, acting pursuant to delegated authority, also issues letters relating to exemptions under the Exchange Act [13] and the staff routinely follows Rule 81 with respect to public availability of such letters. The proposed amendments would codify this practice by making Rule 81 applicable to exemption letters under the Exchange Act where the issuance of an order granting such exemption does not require public notice and an opportunity for hearing.[14] The proposed amendments would also provide that Rule 81 would not apply to letters relating to requests for confidential treatment pursuant to Rule 24b–2 under the Exchange Act.[15]

II. Solicitation of Comments

Any interested persons wishing to submit written comments on the proposed amendments, as well as on other matters that may have an impact on the proposals, are requested to do so.

III. Cost/Benefit Analysis

The proposed amendments will neither impose additional reporting or record-keeping requirements on nor significantly increase regulatory compliance costs. The principal benefit associated with the amendments is that they would allow more timely public inspection of requests for interpretative, no-action and certain exemptive advice and the staff's responses thereto, thereby assisting the public in its understanding of significant questions arising under the federal securities laws.

IV. Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that the amendments proposed herein would not, if adopted, have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to this release.

V. Statutory Basis

The amended rule is being proposed under section 19 of the Securities Act of 1933; section 23 of the Securities Exchange Act of 1934; section 20 of the Public Utility Holding Company Act of 1935; section 319 of the Trust Indenture Act of 1939; section 38 of the Investment Company Act of 1940; section 211 of the Investment Advisers Act of 1940; and section 1 of the Freedom of Information Act.

List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Freedom of Information, Privacy, Securities.

VI. Text of Proposals

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal

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annual shareholders' meetings); *Investment Company Institute* (October 29, 1986) (Investment Company Act Rule 19b–1 (17 CFR 270.19b–1)).

[6] Under the present Rule 81, a no-action or interpretative letter has a public availability date different from the actual date on which it was sent to the requesting party. As a result, there can be confusion on the part of outside persons as to the date of a particular letter. By making the response date and public availability date the same in the majority of cases, the proposed amendments would lessen this potential for confusion.

[7] Under the current practice for providing expedited availability of certain interpretative and no-action letters, the staff is required to seek a waiver of the 30-day confidentiality period from the requesting party. In addition, the staff must maintain records reflecting which letters have been released on an expedited basis. The proposed amendments to Rule 81 would, for the most part, eliminate this administrative burden by permitting expedited publication of all interpretative and no-action letters.

[8] 17 CFR 240.10b–6, 240.10b–7, 240.10b–8, 240–10b–13 and 240.13e–4.

[9] In appropriate cases, the staff would continue to seek the permission of the requester to make the response public on an expedited basis.

[10] This would be the case even where, for example, the Divisions of Corporation Finance and Market Regulation issue separate responses to a single no-action or interpretative request.

[11] Rule 81(b) provides that a request for confidential treatment will be granted where "the staff determines that the request is reasonable and appropriate." Such requests usually involve situations where the interpretative or no-action letter includes the terms of a proposed merger or acquisition which has not been publicly announced, or the description of a new investment product that is in the development stage.

[12] Rule 81(a) currently provides that all communications relating to a request be given confidential treatment for 30 days after a response is sent or given. A requesting party may also be granted confidential treatment for an additional 90 days pursuant to Rule 81(b).

[13] *E.g.*, under Rules 10b–6(h) 13e–4(g)(7) and 14d–10(e) under the Exchange Act (17 CFR 240.10b–6(h), 17 CFR 240.13e–4(g)(7) and 17 CFR 240.14d–10(e), respectively).

[14] Situations in which the Commission issues an exemptive order only after public notice and an opportunity for hearing include applications for exemptions pursuant to section 12(h) of the Exchange Act (15 U.S.C. 781(h)).

[15] 17 CFR 240.24b–2.

Regulations is proposed to be amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Subpart D—Information and Requests

1. The authority citation for Part 200, Subpart D, continues to read as follows:

Authority: 80 Stat. 383, as amended, 31 Stat. 54, secs. 19, 23, 48 Stat. 85, 901, as amended, sec. 20, 49 Stat. 833, sec. 319, 53 Stat. 1173, secs. 38, 211, 54 Stat. 841, 855; 5 U.S.C. 552, 15 U.S.C. 77s, 78w, 79t, 77sss, 80a-37, 80b-11, unless otherwise noted.

2. 17 CFR 200.81 is amended by revising the section heading and paragraph (a), by removing the words "90 days after the expiration of such 30 days" and replacing them with the words "120 days from the date the response has been sent or given to such person" in the first sentence of paragraph (b), by revising the first sentence of the Note to paragraph (b), and adding a sentence at the end of paragraph (c) as follows:

§ 200.81 Publication of interpretative, no-action and certain exemption letters and other written communications.

(a) Except as provided in paragraphs (b) and (c) of this section, every letter or other written communication requesting the staff of the Commission to provide interpretative legal advice with respect to any statute administered by the Commission or any rule or regulation adopted thereunder, or requesting a statement that, on the basis of the facts stated in such letter or other communication, the staff would not recommend that the Commission take any enforcement action, or requesting an exemption, on the basis of the facts stated in such letter, from the provisions of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) or any rule or regulation thereunder, where the issuance of an order granting such exemption does not require public notice and an opportunity for hearing, together with any written response thereto, shall be made available for inspection and copying by any person. Letters or other written communications with respect to Rules 10b-6, 10b-7, 10b-8, 10b-13 and 13e-4 (§§ 240.10b-6, 240.10b-7, 240.10b-8, 240.10b-13 and 240.13e-4 of this chapter) under the Exchange Act, together with any response thereto, shall be made available for inspection and copying by any person 30 days after the response has been sent or given to the person requesting it. All other letters or other written communications, together with any response thereto, shall be made available for inspection and copying by any person as soon as practicable after the response has been sent or given to the person requesting it.

(b) * * *

Note.—All letters or other written communications requesting interpretative advice, a no-action position, or an exemption shall indicate prominently, in a separate caption at the beginning of the request, each section of the Act and each rule to which the request relates. * * *

(c) * * * Further, this section shall not apply to applications or other written communications filed pursuant to § 240.24b-2 that relate to objections to public disclosure of information filed with the Commission or any exchange.

By the Commission.

Jonathan G. Katz,

Secretary.

September 8, 1987.

Securities and Exchange Commission Regulatory Flexibility Act Certification

I, David S. Ruder, Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b), that the amendments to Rule 81 pertaining to publication of interpretative and no-action letters and other written communications and to codification of the staff's practice of applying the rule to certain exemption letters will not, if promulgated, have a significant economic impact on a substantial number of small entities. The reasons for this certification are that the proposed amendments will neither impose additional reporting or recordkeeping requirements on nor significantly increase the costs for small entities to request interpretative, no-action and certain exemption letters.

Dated: September 8, 1987.

David S. Ruder.

[FR Doc. 87-21456 Filed 9-16-87; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 154, 157, 260 and 284

[Docket No. RM87-17-000]

Technical Conferences; Natural Gas Data Collection System

September 11, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of technical conferences.

SUMMARY: On June 25, 1987, the Federal Energy Regulatory Commission (Commission) issued a notice of proposed rulemaking (NOPR) to establish a Natural Gas Data Collection System through the adoption of FERC Form No. 591. Comments were originally to be submitted 60 days after publication in the **Federal Register**, on September 8, 1987. On August 27, 1987, in response to requests from the Interstate Natural Gas Association of America (INGAA), Southern Natural Gas Company and ANR Pipeline Company and Colorado Interstate Gas Company, the Commission extended the comment period on this notice of proposed rulemaking 60 days to November 9, 1987.

In both the requests for extension of time and at a technical conference on this rulemaking held August 7, 1987, parties advised staff that the development of their comments would be facilitated if the Commission provided the industry and public further opportunity to query and discuss with staff certain aspects of FERC Form No. 591.

For this reason, the Commission is scheduling a series of technical conferences to be held prior to the end of the extended comment period. Specifically, the Commission is scheduling these conferences to allow participants to request clarifications, suggest revisions, and otherwise discuss the FERC Form No. 591 data processing format and instructions, definitions of data items, standardization of terms, and to identify specific data elements not available to the proposed respondents.

DATE: The technical conferences will be held on Thursday and Friday October 1 and 2, 1987, and Wednesday, Thursday and Friday October 7, 8 and 9, 1987, beginning at 9:30 a.m. on each day. Any revisions required to the time and place of these conferences will be announced at each conference and be available from the Commission's Office of Pipeline and Producer Regulation, (202) 357-9066.

ADDRESSES: The technical conferences will be held at: Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

The room number will be posted on each day of the technical conferences. Requests to participate in these conferences, including, if possible, a list of specific questions and suggestions, should be directed, in writing, by Monday, September 28, 1987, to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Randolph E. Mathura, Federal Energy Regulatory Commission, Office of Pipeline and Producer Regulation, 825 North Capitol Street NE., Washington, DC 20426, (202) 357–9066.

SUPPLEMENTARY INFORMATION: On June 25, 1987, the Commission issued a Notice of Proposed Rulemaking (NOPR) in Docket No. RM87–17–000.[1] The NOPR proposes to establish the Natural Gas Data Collection System through the adoption of FERC Form No. 591. FERC Form No. 591 will require natural gas pipelines to submit various data, rate filings and certificate applications on 9-track magnetic tape. In addition, FERC Form No. 591 will revise the data presently submitted by natural gas pipelines to reflect the Commission's current regulatory responsibilities. This revision will result in the filing of much of the same data at the same time as at presently, will eliminate some data presently filed, and will require the submission of some data in more detail or more frequently than presently filed. In the NOPR, the Commission stated that it may propose a series of technical conferences to discuss FERC Form No. 591.

The Commission held the first technical conference on Friday, August 7, 1987. The purposes of this conference were to gather information on (1) the computer capability presently existing within the natural gas pipeline industry, (2) the technical considerations of submission of data on 9-track magnetic tape, and (3) to allow the Commission staff an opportunity to discuss and respond to questions on the computer aspects of FERC Form No. 591, including the computer hardware, computer software, and other data processing needs of both the Commission and the industry, and the processing, storage and retrieval of information submitted on magnetic tape.

At the conference held August 7, 1987, many commenters suggested further technical conferences to discuss such areas as the computer format of FERC Form No. 591 and related data processing issues, the standardization of definitions and instructions used in the form and the availability of the individual data elements requested in FERC Form No. 591.[2]

On August 27, 1987, the Commission extended the comment period an additional 60 days to November 9, 1987. The Commission is also scheduling five additional technical conferences to allow interested persons the opportunity to discuss the format and instructions, the definition of terms, and the data items requested in the FERC Form No. 591 that are unavailable for submission. The Commission is not proposing to discuss at these conferences the Commission's need for the individual data elements requested or the overall burden to the industry of suppling requested data items.

The first technical conference is scheduled for Thursday, October 1, 1987 beginning at 9:30 a.m. The Conference will begin with discussions on (1) the tape layout, instructions, specifications, (2) the use of the G and N1 Schedules, (3) the use of FIPS Pub. 79 and the ANSI x3.27–1978, (4) alternate computer submission formats, and (5) other data processing issues of interest to the public and industry. Discussions will then be held on Schedule El: Physical Engineering, Schedule E2: Systems Operations and the certificate application aspects of Schedule N1: Periodic Filings. To the extent necessary, these topics will be carried over to the second conference scheduled for Friday, October 2, 1987, beginning at 9:30 a.m.

Following the Friday October 2, 1987 meeting, the Commission is scheduling three additional conferences, Wednesday October 7, 1987, Thursday October 8, 1987 and Friday October 9, 1987. The purpose of these additional conferences, is to discuss the remaining schedules included within FERC Form No. 591. The agenda on Wednesday October 7, 1987, will begin with Schedule F1: Tariff and continue as follows throughout the remaining conferences:

Schedule F2: Contract
Schedule F3: Receipt and Delivery Point
Schedule F4: Coincidental 3–Day Peak
Schedule C1: Pipeline Cost
Schedule C2: Pipeline Cost Totals
Schedule R1: Pipeline Revenue
Schedule P1: PGA Gas Purchases
Schedule T1: Totals
Schedule S1: Gas Supply

Schedule N1 discussions will be included as appropriate with each of these schedules.

The agenda for the conferences on Thursday October 8, 1987 and Friday October 9, 1987, will be announced at the conclusion of the meeting on October 7, 1987, and also be available by phone from the Commission's Office of Pipeline and Producer Regulation, (202) 357–9066. The agenda for these two meetings will be based on the progress made in dicussing the various schedules at the Wednesday October 7, 1987, conference. The Commission believes that a dicussion of each of the issues for each schedule of FERC Form No. 591 cna be completed by the conclusion of the Friday October 9, 1987, conference. Any additional conferences needed after this date will be scheduled at a later time and published in the **Federal Register.**

The technical conferences will not be of a judicial or evidentiary type. The Commission believes that the exchange of information can be accomplished most productively in a group discussion format, rather than participants making individual presentations. Thus, there will be no formal presentations nor cross-examinations. For each schedule or issue discussed, participants will be asked by a presiding Commission staff officer for their specific comments and questions. The Commission staff will be available to respond to questions concerning the NOPR, to receive and comment on suggestions and to participate in discussions on FERC Form No. 591. The Commission reminds participants, however, that in accordance with the provisions of § 3.8(h) of the Commission's regulations,[3] the opinions and comments expressed by staff are not binding on the Commission in the preparation of the final rule or any other action taken in this docket. The conference will be recorded. Any further procedural rules will be announced on the day of each technical conference. The record of the technical conference will be available in the public file for this proceeding, Docket No. RM7–17–000, in the Commission's Division of Public Information, and may be ordered from that office.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–21530 Filed 9–16–87; 8:45 am]

BILLING CODE 6717–01–M

[1] 52 FR 25530 (July 7, 1987), IV FERC Stats. & Regs. ¶ 32,449 (June 25, 1987).

[2] *See*, particularly, the comments of Marvin W. Ehlers, Vice-President of MIS for MidCon Corporation, contained in the transcript of the technical conference held August 7, 1987, at page 60, the comments of Earl Beam, representing ENRON Interstate Pipelines, at page 26 and page 27 of the same transcript, the comments of Joseph E. Flaherty, Manager of Governmental Regulatory Affairs of Northeast Utilities, at page 70 of the transcript, and the comments of Walter W. Anderson, Manager of Rate and Regulatory Services, El Paso Natural Gas Company at pages 33 through 40 of the transcript.

[3] 18 CFR 3.8(h) (1987).

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2620

[AA-310-07-4211-02]

Withdrawal of Proposed Rulemaking Making Amendments to Regulations on Alaska State Grants

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of withdrawal of proposed rulemaking.

SUMMARY: A proposed rulemaking making amendments to the existing regulations concerning the selection and conveyance of land under entitlements to the State of Alaska was published in the **Federal Register** on October 18, 1983 (48 FR 48400). The amendments were designed to reflect changes made by the Alaska National Interest Lands Conservation Act in the Alaska selection and conveyance process. In the period since the proposed rulemaking was published, the Bureau and the State have been able to resolve outstanding issues concerning the selection and conveyance of lands to the State of Alaska using the existing regulations. As a result of the Bureau's experience during the period since publication of the proposed rulemaking, it has been determined that the amendments put forward in the proposed rulemaking are not needed and the proposed rulemaking is hereby withdrawn.

EFFECTIVE DATE: September 17, 1987.

ADDRESS: Any inquiries or suggestions should be sent to: Director (310), Bureau of Land Management, Room 3653, Main Interior Bldg., 1800 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Ted Stepheson, (202) 343-6511.

J. Steven Griles,

Assistant Secretary of the Interior.

August 28, 1987.

[FR Doc. 87-21393 Filed 9-16-87; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 644

New England Fishery Management Council; Atlantic Billfish Public Hearings

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

ACTION: Notice of public hearings and request for comments.

SUMMARY: The New England Fishery Management Council will hold a series of public hearings and provide a comment period to solicit public input into the proposed Billfish Fishery Management Plan. Individuals and organizations may comment in writing to the Council if they are unable to attend the hearings.

DATES: All hearings will begin at 7:00 p.m. The hearings are scheduled as follows:

1. September 28, 1987, Hyannis, MA
2. September 30, 1987, Portsmouth, NH
3. October 1, 1987, Galilee, RI

The public comment period will close November 2, 1987.

ADDRESSES: The hearings will be held at the following locations:

1. Hyannis—Sheraton Hyannis, Route 132 and Bearse's Way, Hyannis, MA
2. Portsmouth—Holiday Inn, Portsmouth Circle, Portsmouth, NH
3. Galilee—Dutch Inn, Great Island Road, Galilee, RI

All written comments should be sent to the Chairman, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route 1) Saugus, MA 01906.

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall, Executive Director, New England Fishery Management Council, 617-231-0422.

SUPPLEMENTARY INFORMATION: The Billfish Fishery Management Plan (FMP) was prepared jointly by the South Atlantic, New England, Mid-Atlantic, Gulf, and Caribbean Fishery Management Councils. It proposes to establish a management regime for Atlantic billfishes throughout the Atlantic, Gulf, and Caribbean portions of the exclusive economic zone (EEZ) of the United States. The species addressed by this plan are sailfish, white marlin, blue marlin, and longbill spearfish. The principal objective of the FMP is to maintain the highest availability of billfishes to the U.S. recreational fishery. A summary document will be distributed at the hearings presenting the preferred alternative which contains a ban on the sale of all billfishes, minimum sizes, a ban on imports, mandatory reporting for billfish tournaments and a ban on the use of drift entanglement nets. The Council seeks comment on a range of additional management options including a ban on the possession of billfish, a bag limit and gamefish designation.

Dated: September 11, 1987.

Richard H. Schaefer,

Acting Director, Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 87-21500 Filed 9-16-87; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 52, No. 180
Thursday, September 17, 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

Intent To Conduct an A–76 Comparison Study; Motor Vehicle Operation, Maintenance, Leasing, Acquisition, and Disposal Requirements

AGENCY: U.S. Department of Agriculture, Office of Operations.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture will conduct an A–76 cost comparison study of its motor vehicle operation, maintenance, leasing, acquisition, and disposal requirements.

DATES: A solicitation is expected to be released by December 1, 1987, to obtain costs for contracting for an organization outside of the Department to take over total responsibility for the operation, maintenance, acquisition, and disposal requirements of motor vehicles and equipment for the USDA. This solicitation will be synopsized in the *Commerce Business Daily* with instructions for potential contractors prior to bid opening.

FOR FURTHER INFORMATION CONTACT: Rex Hartgraves, FS, Chairman, Vehicle Services Task Force; telephone (202) 447–6709, (FTS) 447–6709; or Denise Patterson, Office of Operations, Personal Property Management Division; telephone (202) 447–3141, (FTS) 447–3141.

SUPPLEMENTARY INFORMATION: The U.S. Department of Agriculture, Office of Operations intends to conduct a nationwide cost comparison study of the operation, maintenance, leasing, acquisition, and disposal requirements of approximately 40,000 motor vehicles and equipment, valued at $1,000 or more, under the guidelines of OMB Circular A–76. This cost study is being conducted in compliance with Title XV, Subtitle C—*Federal Motor Vehicle Expenditure Control*, Pub. L. 99–272, Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985. Section 15305 of this legislation requires agencies to conduct a comprehensive and detailed study and compare the alternatives of the costs, benefits, and feasibility of (A) relying on the General Services Administration Interagency Fleet Management System; (B) entering into a contract with a qualified fleet management firm or another private contractor; or (C) using any other means less costly to the Government to meet its motor vehicle operation, maintenance, leasing, acquisition, and disposal requirements

This notice is published in compliance with OMB Circular A–76 which requires agencies to publish their schedules for conducting cost comparison studies and is for informational purposes only. Solicitation documents are not currently available.

Frank Gearde, Jr.,
Director, Office of Operations.

[FR Doc. 87–21514 Filed 9–16–87; 8:45 am]
BILLING CODE 3410–98–M

Office of the Secretary

State of Colorado Inactive Mine Reclamation Program; Determination of Primary Purpose of Amounts That May Be Excluded From Income Under Section 126 of the Internal Revenue Code of 1954, as Amended

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of determination.

SUMMARY: The Secretary of Agriculture has determined that payments and benefits that result under the Colorado Inactive Mine Reclamation Program, as authorized by Colorado Revised Statutes 34–33–133, are made primarily for the purposes of conserving soil and water resources, protecting or restoring the environment, improving forest, and providing a habitat for wildlife. This determination is in accordance with section 126(b) of the Internal Revenue Code of 1954, as amended by section 543 of the Revenue Act of 1978 and the Technical Corrections Act of 1979. The determination permits recipients of these payments and benefits to exclude them from gross income to the extent allowed by the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Director, Colorado Mined Land Reclamation Division, 1313 Sherman Street, Room 423, Denver, Colorado 80203, Phone: (303) 866–3567; or Director, Land Treatment Program Division, Soil Conservation Service, USDA, Post Office Box 2890, Washington, DC 20013, (202) 382–1870..

SUPPLEMENTARY INFORMATION: Section 126 of the Internal Revenue Code of 1954, as amended by the Revenue Act of 1978 and the Technical Corrections Act of 1979, 26 U.S.C. 126, provides that certain payments made to individuals under State conservation programs may be excluded from the recipient's gross income for Federal income tax purposes if the Secretary of Agriculture determines that the payments are made "primarily for the purpose of soil and water conservation, protecting or restoring the environment, improving forests, or providing a habitat for wildlife . . ." The Secretary of Agriculture evaluates the State conservation program on the basis of criteria set forth in 7 CFR Part 14, and makes a "primary purpose" determination for the payments made under the program. Before there may be an exclusion, the Secretary of the Treasury must determine that the payments made under the program do not substantially increase the annual income derived from the property benefited by the payments.

The Colorado Inactive Mine Reclamation Program is authorized by Colorado Revised Statutes 34–33–133. It is funded through grants from the Office of Surface Mining, U.S. Department of the Interior under Title IV of the Surface Mine Control and Reclamation Act (SMCRA). Funding of the program is from a special fee collection on coal production. The purposes of the Colorado Inactive Mine Reclamation Program are:

1. The protection of the public health, safety, general welfare, and property from extreme danger of adverse effects of past coal mining practices.

2. The protection of public health, safety, and general welfare from adverse effects of past coal mining practices.

3. The restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices including

measures for the conservation and development of soil, water, woodland, fish and wildlife, recreation resources, and agricultural productivity.

4. Research and demonstration projects relating to the development of surface mining reclamation and water quality control program methods and techniques.

5. The protection, repair, replacement, construction, or enhancement of public facilities such as utilities, roads, recreation, and conservation facilities adversely affected by coal mining practices.

6. The development of publicly owned land adversely affected by coal mining practices including land acquired as provided under SMCRA for recreation and historic purposes, conservation, and reclamation purposes and open space benefits.

The Mined Land Reclamation Division of the Colorado Department of Natural Resources administers the Colorado Inactive Mine Reclamation Program. Eligible projects are identified and selected by the State in accordance with the objectives described above.

In most cases, the consent to access must be obtained from private property owners for the State to conduct the reclamation work. Only where emergency situations exist can the State utilize its police powers for nonconsented entry. The State prepares the reclamation plans to eliminate threats to public health and safety, and repair degradation to lands and waters, which result from abandoned mines. All construction work is competitively bid. No cash payments are made to the landowner unless the landowner is successful in competitively procuring the construction contract. Benefits that inure to urban and rural property owners from the reclamation work include reduced threats to life and property, and for rural properties, increased land use capabilities for grazing and wildlife. However, all work conducted is for public health, safety and general welfare reasons.

Procedural Matters

The Department of Agriculture has classified this determination as "not major" in accordance with Executive Order 12291 and the Secretary's Memorandum No. 1512–1. The Secretary has determined that these program provisions will not result in an annual effect on the economy of $100 million or more; will not cause a major increase in cost to consumers, individuals, industries, government agencies, or geographic regions; and will not cause 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.

A Colorado Inactive Mine Reclamation Program "Primary Purpose Determination for Federal Tax Purposes," Record of Decision, has been prepared and is available upon request from the Director, Land Treatment Program Division, Soil Conservation Service, P.O. Box 2890, Washington, DC 20013; or the Director, Colorado Mined Land Reclamation Division, 1313 Sherman Street, Room 423, Denver, Colorado 80203.

Determination

As required by section 126(b) of the Internal Revenue Code of 1954, as amended, I have examined the authority legislation, regulations, and operating procedures of the Colorado Inactive Mine Reclamation Program. In accordance with the criteria set out in 7 CFR Part 14, I have determined that all payments made under this program are for soil and water conservation, protecting or restoring the environment, improving forests, or providing wildlife habitat. Excluded from this determination are payments made for the recovery of coal or any mineral which occurs incidental to or in connection with the funded activity; payments made as compensation for services performed; and income from the sale of soil, minerals or any other materials. Subject to further determination by the Secretary of the Treasury, this determination permits property owners to exclude from gross income, for Federal income tax purposes, all payments made and benefits resulting from the Colorado Inactive Mine Reclamation Program except as excluded above.

Signed at Washington, DC, on September 10, 1987.

Peter C. Myers,

Acting Secretary.

[FR Doc. 87–21492 Filed 9–16–87; 8:45 am]

BILLING CODE 3410-01-M

Soil Conservation Service

Environmental Impact Statement; Smyrna-Clayton Critical Area Treatment RC&D Measure, Delaware

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Smyrna-Clayton Critical Area Treatment RC&D Measure, Kent County, Delaware.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas E. Hawkins, State Conservationist, Soil Conservation Service, 9 E. Loockerman Street, Suite 207, Dover, Delaware 19901–7377, telephone (302–678–0750).

Smyrna-Clayton Critical Area Treatment RC&D Measure, Delaware, Finding of No Significant Impact.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Douglas E. Hawkins, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan to reshape a steep eroding bank and to bring in fill material and cover the floor on an old abandoned sand and gravel pit approximately six (6) inches deep. All bare areas are to be treated with sufficient amounts of lime, fertilizer, grass seed, and mulch to establish an acceptable vegetable cover. Currently, the two areas are actively eroding and contributing sediment to Duck Creek, which runs along the northern property boundary of the project site. The site is located on State Route 134 in the Town of Smyrna, Delaware, directly across from the Smyrna High School.

Installation of the project measure will allow the local Little League to develop two baseball fields on the site and to reduce the amount of sediment entering Duck Creek.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Mr. Douglas E. Hawkins.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance Under No.

10.901–Resource Conservation and Development—and is subject to the provision of Executive Order 12372 which requires intergovernmental consultation with State and Local officials.)

Douglas E. Hawkins,

State Conservationist.

September 9, 1987.

[FR Doc. 87–21429 Filed 9–16–87; 8:45 am]

BILLING CODE 3410–16–M

Soil, Water and Related Resources

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of extension of comment period.

SUMMARY: The current 60 day comment period on the "Second RCA Appraisal: Soil, Water and Related Resources on Nonfederal Land in the United States, Analysis of Condition and Trends" appeared on page 26168 in Volume 52, the **Federal Register** of Monday, July 13, 1987 (FR Doc. 87–15773) expires September 14, 1987. This document extends the comment period an additional 30 days to allow citizens, as well as federal, state and local officials ample time to comment on the interim rule.

DATE: The comment period on the appraisal has been extended for thirty (30) days from the date of this notice. Comments should be submitted by October 19, 1987.

FOR FURTHER INFORMATION CONTACT: Peter M. Tidd, Director, Appraisal and Program Development Division, Soil Conservation Service, USDA, P.O. Box 2890, Washington, DC 20013, telephone: (202) 447–8388.

Wilson Scaling,

Chief.

[FR Doc. 87–21469 Filed 9–16–87; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Ch. 35).

Agency: National Oceanic and Atmospheric Administration

Title: Logbook Family of Forms Amendment (Swordfish)

Form number: Agency—N/A; OMB—0648–0016

Type of request: Revision of a currently approved collection

Burden: 500 respondents; 1,999 new burden hours

Needs and uses: Atlantic swordfish fishermen will be required to submit logbooks on their catch. The information will be used by scientists to determine the status of swordfish stocks, and for providing other data to develop management measures to prevent overfishing.

Affected public: Businesses or other for-profit institutions; small businesses or organizations

Frequency: Monthly

Respondent's obligation: Mandatory

OMB desk officer: John Griffen, 395–7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to John Griffen, OMB Desk Officer, Room 3228, New Executive Office Building, Washington, DC 20503.

Dated: September 8, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87–21494 Filed 9–16–87; 8:45 am]

BILLING CODE 3510–CW–M

Foreign-Trade Zones Board

[Docket No. 16–87]

Application for Expansion; Foreign-Trade Zone 9, Honolulu, HI

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the State of Hawaii's Department of Planning and Economic Development, grantee of Foreign-Trade Zone 9, requesting authority to expand the zone to include a technology industrial park site in the Mililani area, Oahu, Hawaii, within the Honolulu Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on September 4, 1987.

On February 15, 1965, the Board authorized the State of Hawaii to establish a foreign-trade zone in the Honolulu area (Board Order 65, 30 FR 2377, 2/20/65). The general-purpose zone currently consists of warehousing facilities on 17 acres at Pier 2 in Honolulu Harbor. The Board recently approved an application to expand the zone to include a 1,050-acre site at the James Campbell Industrial Park in Ewa, Oahu.

The pending application calls for an additional 109-acre industrial site at the Mililani Technology Park, located east of the H–2 Freeway at Golf Course Road in the Mililani area of central Oahu, about 20 miles from downtown Honolulu. The site is being developed for technology-related operations, including light manufacturing, assembly, research and development, and world-wide distribution by Oceanic Properties, Inc., a subsidiary of Castle and Cooke, Inc., owner of the property. Because the zone already includes an industrial park site, the Board will evaluate the need for still another such site.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Joseph E. Lowry (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; George Roberts, District Director, U.S. Customs Service, Pacific Region, P.O. Box 1641, Honolulu, Hawaii 96806; and Colonel F.W. Wanner, District Engineer, U.S. Army Engineer District Honolulu, Building 230, Fort Shafter, Hawaii 96858–5440.

Comments concerning the proposed expansion are invited in writing from interested parties, including whether there is a need for another non-contiguous industrial park site in Oahu as part of the Hawaii zone. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before October 23, 1987.

A copy of the application is available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, P.O. Box 50026, 4106 Federal Building, 300 Ala Moana Boulevard, Honolulu, Hawaii 96813

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania Avenue NW., Washington, DC 20230

Dated: September 11, 1987.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 87–21513 Filed 9–16–87; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the certificate should be issued.

FOR FURTHER INFORMATION CONTACT: George Muller, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97–290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and State antitrust laws for the export conduct specified in the certificate and carried out during its effective period in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a certificate should be issued. An original and five (5) copies should be submitted not later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 87–00012." A summary of the application follows.

Applicant: U.S. Hide, Skin & Leather Association (HS & L), 1707 N Street, NW., Third Floor, Washington, DC 20036. Contact: Jerome Breiter at (202) 833–2405. Application #: 87–00012. Date Deemed Submitted: September 4, 1987.

Members: the following companies that are members of HS & L: Anamax Corporation, Green Bay, WI; Chilewich Corporation, New York, NY; CHS Intercontinental Company, Houston, TX; Dietrich Hide Corporation, Boston, MA; Eastern Trading Company, Inc., Los Angeles, CA; A.J. Hollander & Company, Inc., New York, NY; Intermet, Ltd., Bloomfield Hills, MI; Kaufmann Trading Corporation, New York, NY; M. Lyon & Company, Kansas City, MO; A. Mindel & Son, Inc., Toledo, OH; Moyer Packing Company, Sounderton, PA; NAHE Texas, Inc., Pasadena, TX; National By-Products, Inc., Des Moines, IA; Newon Industries Corporation, Rutherford, NJ; Southwest Hide Company, Boise, ID; Trans Coast International, Inc., Los Angeles, CA; Trans World Hide Corporation, Cedar Rapids, IA; Union Hide Company, Inc., Oakland, CA; United Industries, Inc., Portland, OR; and WE Company, Detroit, MI.

Summary of the Application:

Export Trade:

Products:

Preserved hides and skins, and leather in various stages of finishing.

Export Trade Facilitation Services (as they relate to the export of Products)

Procurement of transportation services for Products exported or in the course of being exported. Transportation services include overseas freight transportation, inland freight transportation to a U.S. export terminal, port, or gateway; packing and crating; leasing of transportation equipment and facilities; terminal or port storage; wharfage and handling; insurance; forwarder services; export sales documentation and services; and customs clerance.

Export Markets:

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation: HS & L seeks certification to:

1. Negotiate with steamship conferences, steamship lines, railroads, trucking companies, container leasing companies, insurance companies, terminals, and freight consolidators and forwarders to obtain rates and other terms for transportation services for its members.

2. Meet and exchange information on transportation services, including:

a. potential suppliers;

b. rates and terms;

c. other information as may be necessary to analyze, negotiate for, and procure transportation services.

3. Meet and discuss supply and demand for hides, skins, and leather in the export markets, including volumes desired by export customers and anticipated prices.

4. Discuss and/or agree on terms of export sales, including prices to be charged by members to foreign buyers for hides, skins, and leather.

5. Prescribe the following conditions for membership in the association:

a. Any member in good standing of the HS & L is eligible for membership.

b. Any member may resign from the association by giving sixty days prior written notice to the HS & L.

c. New members may be added to the association upon proper request, and the Departments of Commerce and Justice shall be promptly notified of such request.

George Muller,

Acting Director, Office of Export Trading Company Affairs.

Date: September 14, 1987.

[FR Doc. 87–21495 Filed 9–16–87; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Caribbean Fishery Management Council and its Administrative Subcommittee will convene separate public meetings at the St. Croix by the Sea Hotel, Conference Room, Christiansted, St. Croix, U.S. Virgin Islands. At its 60th meeting the Council will elect its officials, consider management plans under development, habitat conservation issues, and discuss administrative issues related to the Council's regular operations. The Council's Administrative Committee will discuss issues related to the Committee's regular operations.

The Council will convene its public meeting on October 6, 1987, at 9 a.m. and adjourn at 5 p.m.; reconvene October 7 at 9 a.m. and adjourn at noon. The Administrative Subcommittee will convene October 5 at 2 p.m. and adjourn at 6 p.m.

For further information contact the Caribbean Fishery Management Council, Banco de Ponce Building, Suite 1108, Hato Rey, PR 00918 (809) 753–4926.

Dated: September 11, 1987.

Richard H. Schaefer,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 87-21525 Filed 9-16-87; 8:45 am]

BILLING CODE 3510-22-M

COMMISSION ON CIVIL RIGHTS

Florida Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Florida Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 5:00 p.m. on October 1, 1987, at the Radisson Mart Plaza Hotel, Palm Room, 711 N.W. 72nd Ave., Miami, Florida. The purpose of the meeting is to conduct a public forum on police relations with the metropolitan Miami-Dade County area community.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Michael J. Moorhead (904/392-2211) or John I. Binkley, Director of the Eastern Regional Division, at (202/523-5264; TDD (202/376-8117). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 3, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87-21430 Filed 9-16-87; 8:45 am]

BILLING CODE 6335-01-M

Michigan Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 5:00 p.m., on September 30, 1987, at the Westin Hotel, Renaissance Center, Detroit, Michigan. The purpose of the meeting is to conduct program planning and to hold a community forum on the status of civil rights in Detroit.

Persons desiring additional information, or planning a presentation to the Committee, should contact Acting Committee Chairperson, Keith Butler or Melvin Jenkins, Director of the Central Regional Division (816) 374-5253, (TDD 816/374-5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 10, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87-21431 Filed 9-16-87; 8:45 am]

BILLING CODE 6335-01-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing a Unilateral Import Restraint Limit for Certain Cotton Textile Products in Category 347/348 Produced or Manufactured in Costa Rica

September 14, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on September 18, 1987. For further information contact Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Background

On June 18, 1987, a notice was published in the **Federal Register** (52 FR 23198) which established an import restraint limit for cotton textile products in Category 347/348, produced or manufactured in Costa Rica and exported during the ninety-day period which began on May 29, 1987 and extended through August 26, 1987.

The United States Government has decided, inasmuch as consultations held with the Government of Costa Rica, August 27 and 28, 1987 did not reach a mutually satisfactory solution concerning this category, to control imports of cotton textile products in Category 347/348, produced or manufactured in Costa Rica and exported during the twelve-month period which began on August 27, 1987 and extends through August 26, 1988.

Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Category 347/348, during the twelve-month period which began on August 27, 1987 and extends through August 26, 1988, in excess of the designated level of restraint.

Textile products in Category 347/348 shipped in excess of the ninety-day limit previously established will be subject to the limit established in the directive published below. Charges will be made as the data become available.

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in further consultations with the Government of Costa Rica, further notice will be published in the **Federal Register.**

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 14, 1987.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 02229.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 7 and 8, 1984, as amended, between the Governments of the

United States and Costa Rica; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on Sept. 18, 1987, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 347/348, produced or manufactured in Costa Rica and exported during the twelve-month period which began on August 27, 1987 and extends through August 26, 1988, in excess of 825,725 dozen.

Textile products in Category 347/348 which have been released from the custody of the U.S. Customs Service under the provision of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

In carrying out this directive, entries of textile products in Category 347/348, produced or manufactured in Costa Rica, which have been exported to the United States during the ninety-day period which began on May 29, 1987 and extended through August 26, 1987, shall to the extent of any unfilled balance, be charged to the level established for that period. In the event the limit established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-21406 Filed 9-16-87; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 6-8 October 1987.

Times of Meeting: 0800-1600 hours daily.

Place: Pentagon, Washington, DC.

Agenda: The Army Science Board's Ad Hoc Committee on Implementing Competitive Strategies will meet. Objectives of this meeting will be twofold. First, the panel will receive additional technology briefings of low observables, communications and ammunition/fuses. Second, based upon the technology briefings presented during this meeting and the August meeting, the panel will conduct work sessions, formulating their thoughts and refining them towards a finished product. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextreicably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 87-21432 Filed 9-16-87; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Chief of Naval Operations, Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Strategic Capabilities Task Force will meet September 28-29, 1987 from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to review the Navy's future needs and balance of strategic offensive/defensive forces, potential initiatives to enhance strategic capabilities, and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Paul G. Butler, Executive Secretary of the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302-0268. Phone (703) 756-1205.

Dated: September 14, 1987.

W.R. Babington, Jr.,

Commander, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 87-21540 Filed 9-16-87; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.022]

Invitation of Applications for New Awards Under the Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program for Fiscal Year 1988

Purpose: Awards fellowships through institutions of higher education to graduate students for full-time dissertation research abroad in modern foreign languages and area studies.

Priorities: The regulations governing the Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program, provide for the establishment of funding priorities by the Secretary (34 CFR 662.32(c)). For Fiscal Year 1988, the Secretary has established funding priorities for new awards for doctoral dissertation research abroad. These priorities will be applied in accordance with the provisions of the Education Department General Administrative Regulations (EDGAR), 34 CFR 75.105(c)(3). All available funds for this program will be reserved solely for applications which propose research focusing upon one or more of the following world areas: (1) Africa; (2) the Western Hemisphere; (3) East Asia; (4) Southeast Asia and the Pacific; (5) Eastern Europe and the U.S.S.R.; (6) the Near East; or (7) South Asia. Applications which purpose research focusing on Western Europe will not be funded.

Deadline for transmittal of applications: November 16, 1987.

Applications available: September 30, 1987.

Available funds: The Administration's budget request for fiscal year 1988 does not include funds for this program. However, applications are invited to allow for 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. The following estimates are based upon the FY 1987 appropriation.

Estimated range of awards: $4,000 to $40,000.

Estimated average amount of awards: $15,770.

Project period: 6 to 12 months.

Applicable regulations: (a) The Higher Education Programs in Modern Foreign Language Training and Area Studies—Doctoral Dissertation Research Abroad Fellowship Program Regulations, 34 CFR Part 662, and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78.

For applications or information contact: Mr. John Paul, U.S. Department of Education, Mail Stop 3308, 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: (202) 732-3298.

Program authority: 22 U.S.C. 2452(b)(6).

Dated: September 10, 1987.

C. Ronald Kimberling,

Assistant Secretary for Postsecondary Education.

[FR Doc. 87-21476 Filed 9-16-87; 8:45 am]

BILLING CODE 4000-01-M

[CFDA No.: 84.019]

Invitation of Applications for New Awards Under the Fulbright-Hays Faculty Research Abroad Fellowship Program for Fiscal Year 1988

Purpose: Awards fellowships through institutions of higher education to faculty members for research abroad in modern foreign languages and area studies.

Priorities: The regulations governing the Fulbright-Hays Faculty Research Abroad Fellowship Program provide for the establishment of funding priorities by the Secretary (34 CFR 633.32(c)). For Fiscal Year 1988, the Secretary has established funding priorities for new awards for faculty research abroad. These priorities will be applied in accordance with the provisions of the Education Department General Administrative Regulations (EDGAR), 34 CFR 75.105(c)(3). All available funds for this program will be reserved solely for applications which propose research focusing upon one or more of the following world areas: (1) Africa; (2) the Western Hemisphere; (3) East Asia; (4) Southeast Asia and the Pacific; (5) Eastern Europe and the U.S.S.R.; (6) the Near East; or (7) South Asia. Applications which propose research focusing on Western Europe will not be funded.

Deadline for transmittal of applications: November 16, 1987.

Applications available: September 30, 1987.

Available funds: The Administration's budget request for fiscal year 1988 does not include funds for this program. However, applications are invited to allow for 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. The following estimates are based upon the FY 1987 appropriation.

Estimated range of awards: $8,000 to $58,000

Estimated average amount of awards: $32,694.

Project period: 3 to 12 months.

Applicable regulations: (a) The Higher Education Programs in Modern Foreign Language Training and Area Studies—Faculty Research Abroad Fellowship Program Regulations, 34 CFR Part 663, and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78.

For applications or information contact: Ms. Merion Kane, U.S. Department of Education, Mail Stop 3308, 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: (202) 732-3301.

Program authority: 22 U.S.C. 2452 (b)(6).

Dated: September 10, 1987.

C. Ronald Kimberling,

Assistant Secretary for Postsecondary Education.

[FR Doc. 87-21477 Filed 9-16-87; 8:45 am]

BILLING CODE 4000-01-M

[CFDA No.: 84.120-A&B]

Invitation of Applications for New Awards Under the Minority Science Improvement Program (MSIP) for Fiscal Year 1988

Purpose: Provides grants to support projects that propose to effect long-range improvement in science and engineering education at predominantly minority institutions and to increase the participation of underrepresented ethnic minorities in scientific and technological careers.

Deadline for transmittal of applications: November 20, 1987 for Special Projects, and January 29, 1988 for Institutional, Design, and Cooperative Projects.

Applications available: October 5, 1987.

Available funds: The Administration's budget for fiscal year 1988 requested an appropriation of $5,000,000. Should this amount be appropriated, approximately $3,750,000 will be available for Institutional, Design, and Cooperative Projects. The remaining $1,250,000 will be available for Special Projects.

Maximum size of awards: $300,000 for Institutional, $20,000 for Design, $500,000 for Cooperative Projects, and $150,000 for Special Projects.

Estimated average size of awards: $210,000 for Institutional and Cooperative Projects, $19,000 for Design Projects, and $44,000 for Special Projects.

Estimated number of awards: Institutional, Design and Cooperative Projects—18. Special Projects—20.

Project period: 12 to 36 months.

Applicable regulations: (a) The regulations governing the Minority Science Improvement Program, 34 CFR Part 637, and (b) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 78.

For applications or information contact: Dr. Argelia Velez-Rodriguez, U.S. Department of Education, Mail Stop 3327, 400 Maryland Avenue, SW. Room 3022, ROB-3, Washington, DC 20202. Telephone (202) 732-4396.

Program authority: 20 U.S.C. 1135b-1135b-3 and 1135d-1135d-6.

Dated: September 10, 1987.

C. Ronald Kimberling,

Assistant Secretary for Postsecondary Education.

[FR Doc. 87-21478 Filed 9-16-87; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. PP-84]

Issuance of an Order Granting Time Extension; Central Maine Power Co.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Issuance of an order granting time extension.

SUMMARY: On September 10, 1987, the Economic Regulatory Administration (ERA) issued an order to Central Maine Power Company (CMP) granting an extension of the time within which CMP may file answers to all petitions for intervention in the Presidential permit proceeding Docket No. PP-84.

FOR FURTHER INFORMATION CONTACT:

Anthony J. Como, U.S. Department of Energy, Office of Fuels Programs (RG-22), 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-5935.

Lise Courtney M. Howe, U.S. Department of Energy, Office of General Counsel (GC-41), 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-2900.

SUPPLEMENTARY INFORMATION: On August 14, 1987, Central Maine Power Company (CMP) filed a request with the Economic Regulatory Administration (ERA) for an extension of time within which to file CMP's answer to all petitions for intervention in the Presidential permit proceeding Docket No. PP-84. Pursuant to Rule 2008, 18 CFR 385.2008, CMP requested that the time to answer, provided in 18 CFR 385.214, be extended from fifteen days after each

petition is filed to fifteen days after the last day of the public comment period, i.e., Tuesday, September 15, 1987. 18 CFR 385.2008(a) authorizes decisional authorities to extend procedural time periods for good cause where the request is made before the expiration of the period "prescribed or previously extended." CMP requested this extension to allow for a more orderly and efficient proceeding without prejudicing any other person. This petition by CMP followed ERA's decision on July 31, 1987, to extend the time within which public comments, protests and interventions could be filed from August 5, 1987, to August 31, 1987 (52 FR 28481). ERA granted CMP's request on August 17, 1987 (52 FR 32165), thereby extending to Septmeber 15, 1987, CMP's time to answer all petitions for intervention filed in this proceeding.

On September 4, 1987, pursuant to 18 CFR 385.2008, Central Maine Power Company (CMP) filed a request with the ERA for a second extension of time from September 15, 1987, to September 22, 1987, within which to file responses to the 15 petitions to intervene which ERA has received in this proceeding. According to CMP, such an extension would facilitate a fuller evaluation by CMP of these numerous pleadings, and will enable a more complete response.

ERA agrees with CMP that the additional extension of time is warranted considering the numerous pleadings filed. Furthermore, ERA feels that the granting of this additional extension would not prejudice any person, nor would the completion of the permit proceeding be delayed.

It Is Ordered That:

(A) The request filed by Central Maine Power Company for an extension of time within which to file answers to petitions to intervene in the Presidential permit proceeding Docket No. PP-84 to Tuesday, September 22, 1987, is granted.

(B) Until the ERA determines the status of all parties which have filed petitions to intervene in the PP-84 proceeding, Central Maine Power Company is required to serve any filings or other submissions which it makes with ERA on the following individuals who represent parties that have filed petitions to intervene in this proceeding:

Ms. Pamela Prodan, Star Route, Dryden, Maine 05225

Douglas S. Horan, Esq., Associate General Counsel, Boston Edison Company, 800 Boylston Street, Boston, Massachusetts 02199

Ms. Jerrilynne Purdy, NEPOOL Relations & Inter-Utility Contracts Manager, Boston Edison Company, 800 Boylston Street, Boston, Massachusetts 02199

Allen C. Barringer, Esq., Potomac Electric Power Company, 1900 Pennsylvania Avenue, NW., Washington, DC 20068

Mr. T. Robert Woodward, Manager, PJM Interconnection Office, 955 Jefferson Avenue, Valley Forge Corporate Center, Norristown, Pennsylvania 19403

James R. McIntosh, Esq., Mr. C. Duane Blinn, Esq., Day, Berry & Howard, CityPlace, Hartford, Ct 06103-3499

Phillip C. Otness, Executive Director, New England Power Pool, 174 Brush Hill Avenue, West Springfield, Ma. 01090

Mr. Vern R. Walker, Swidler & Berlin, Chartered, 3000 K Street, NW., Suite 300, Washington, DC 20007

Mr. Robert O. Bigelow, Vice President and Director, Planning and Power Supply, New England Power Service Co., 25 Research Drive, Westborough, Mass. 01581

Mr. James A. Bennett, Town Manager, Torrey Memorial Building, Office of the Municipal Officers, Main Street, Dixfield, Maine 04224

Ms. Sonja L. Hodgkins, Star Route Box 30, Frye, Maine 04235

Mr. John K. Poirier, Nova Scotia Power Corporation, Secretary & General Counsel Division, P.O. Box 910, Halifax, Nova Scotia, B3J 2W5

Linda L. Randell, Esq., Wiggin & Dana, 195 Church Street, P.O. Box 1832, New Haven, Ct. 06508

Mr. Ellis O. Disher, The United Illuminating Company, 80 Temple Street, P.O. Box 1564, New Haven, Ct. 06505-0201

Mr. Walter T. Schultheis, Vice President, Power Supply Planning and Research, Northeast Utilities, P.O. Box 270, Hartford, Ct. 06141-0270

Mr. Robert P. Wax, Associate General Counsel, Northeast Utilities, P.O. Box 270, Hartford, Ct. 06141-0270

Mr. Kevin H. Young, Benesch, Friedlander, Coplan & Aronoff, 1100 Citizens Building, 850 Euclid Avenue, Cleveland, Ohio 44114

Mr. David C. Branand, National Coal Association, 1130 17th Street, NW., Washington, DC 20036

Mr. Ronald A. Kreisman, Natural Resources Council of Maine, 271 State Street, Augusta, Maine 04330

Ms. Sonia Hodgkins, Town of Roxbury, Box 24, Roxbury, Me. 04275

John & Kathleen Sunon, P.O. Box 193, Rumford, Me. 04276

Issued in Washington, DC on September 10, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-21464 Filed 9-16-87; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 87-45-NG]

Application To Export Natural Gas to Canada; Continental Natural Gas, Inc.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application for blanket authorization to export natural gas to Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on August 25, 1987, of an application from Continental Natural Gas, Inc. (CNG), for blanket authorization to export natural gas to Canada for short-term or spot market sales to customers not yet identified but which are expected to include, among others, industrial and commercial end-users, agricultural users, utilities, pipelines and distribution companies. Authorization is requested to export up to 47.5 Bcf over a term of two years beginning on the date of first delivery. The maximum daily quantity of natural gas proposed to be exported by CNG will not exceed 65,000 Mcf. ERA is presently considering CNG's blanket application to import up to 47.5 Bcf of natural gas from Canada in ERA Docket No. 87-25-NG.

CNG proposes to act either as a broker or agent with respect to the sale of exported gas or may purchase gas on its own behalf for resale in Canada. The gas to be exported will be produced from fields in Oklahoma, Kansas, Colorado, Wyoming, Texas and Louisiana. No new facilities will be constructed for the proposed exportation of the gas by CNG. The applicant proposes to advise the ERA of the date of the first delivery of the export and submit quarterly reports giving details of individual transactions.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than October 19, 1987.

FOR FURTHER INFORMATION CONTACT:

John S. Boyd, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA-076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-4523

Diane J. Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington DC 20585, (202) 586-6667

SUPPLEMENTARY INFORMATION: This export application will be reviewed pursuant to section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order No. 0204-111. All

parties should be aware that if the ERA approves this requested blanket export, it may designate a total amount of authorized volumes for the term rather than a daily or annual limit, in order to provide the applicant with maximum flexibility of operation. The decision on whether the export of natural gas is in the public interest will be based upon the domestic need for the gas and on whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing parties to freely negotiate their own trade arrangements. The applicant asserts that the requested authorization would promote competition and, in light of the continuing "gas bubble", would benefit the public interest. Parties, especially those that may oppose this application, should comment in their responses on these matters.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076, RG-23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. They must be filed no later than 4:30 p.m., October 19, 1987.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of CNG's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076-A at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, September 10, 1987.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-21465 Filed 9-16-87; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Orders Issued to Texaco Inc.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of issuance of proposed remedial orders to Texaco Incorporated.

I. Introduction

Pursuant to 10 CFR 205.192 the Economic Regulatory Administration (ERA), Department of Energy (DOE) hereby gives notice that two Proposed Remedial Orders (PROs) were issued on May 12, 1987 to Texaco Incorporated, 2000 Westchester Avenue, White Plains, New York 10650. The impact of the alleged violations is nationwide. In accordance with 10 CFR 205.192, a copy of the Proposed Remedial Orders with confidential information, if any, deleted, may be obtained from the DOE Freedom of Information Room, U.S. Department of Energy, 1000 Independence Avenue, SW, Room 1E-190, Washington, DC 20585.

Texaco Incorporated (Texaco) is a refiner engaged in the production of crude oil, the refining and marketing of petroleum products, and the production of natural gas liquids and natural gas liquid products. Texaco was therefore subject to the Mandatory Petroleum Price and Allocation Regulations (Regulations) which were in effect until January 28, 1981. The ERA conducted an audit of Texaco and determined that the firm violated the Regulations. ERA discusses below the proposed orders for which notice of issuance is hereby given.

II. Issuance of Proposed Remedial Orders

1. Proposed Remedial Order No. NTXR000A1

This PRO alleges that Texaco failed to compute correctly its increased shrinkage and gas plant product cost calculations in accordance with the Regulations.

Pursuant to authority provided in the Emergency Petroleum Allocation Act (EPAA), 15 U.S.C. 751 *et seq.*, the Department of Energy performed an audit of Texaco's books and records for the period September 1973 through December 1976 (audit period), in order to determine Texaco's compliance with the Regulations. The Regulations apply to the calculation and reporting by a firm of increased costs of shrinkage for natural gas liquids and natural gas liquid products produced in gas plants. As a consequence of errors in its calculations of its increased shrinkage cost per gallon, Texaco overstated its increased shrinkage cost due to use of incremental pricing, the improper inclusion of cycling plants in the shrinikage calculations, and shrinkage cost overreporting by amounts totalling $119,590,308 for the period September 1973 through December 1976.

The violations alleged in the PRO also concern costs claimed by Texaco in revised Refiners' Monthly Cost Allocation Reports (RMCARs) for May 1977 through July 1978 and potential continuing violations from January 1977 through December 1980. During this post-audit period, Texaco violated the Regulations by using an incremental pricing methodology for calculating shrinkage, improperly claiming shrinkage costs for Texaco's cycling plants, and improperly calculating extraction losses. ERA has estimated that as a result of those continuing violations from January 1977 through

December 1980, Texaco has overstated its costs by approximately $188 million.

As a remedy for these violations, the PRO directs Texaco to determine the correct amount of increased shrinkage costs that Texaco could have claimed, to recalculate its costs available for recovery, to submit new reporting schedules using the recomputed costs, and to refund any overcharges plus interest generated as a result of the recalculations.

2. Proposed Remedial Order No. RCKH016A1

This PRO alleges that Texaco overcharged in the amount of $32,452,636.27 in certain sales of its crude oil during the period June 1980 through January 1981.

ERA's audit focused on certain crude oil transactions in which Texaco sold price controlled crude oil to four crude oil resellers and conditioned those sales on Texaco's purchase of equal volumes of entitlements-exempt crude oil at prices substantially below market prices. The PRO alleges violations of the pricing regulations resulting from Texaco's receipt of consideration above its maximum lawful selling price in Texaco's sales of price controlled crude oil, in the form of discounts on its purchases of the entitlements-exempt crude oil.

As a remedy for these violations, the PRO proposes that Texaco be ordered to make restitution by refunding the violation amount, plus interest accrued since June 1980.

III. Notice of Objection

In accordance with 10 CFR 205.193, any aggrieved person may file a Notice of Objection to either or both of the proposed orders described in section II above with DOE's Office of Hearings and Appeals, within 15 days after the date of this publication. A person who fails to file a Notice of Objection shall be deemed to have admitted the findings of fact and conclusions of law stated in the proposed orders. If a Notice of Objection is not filed in accordance with § 205.193, the proposed order may be issued as a final Remedial Order.

All Notices of Objection, Statements of Objections, Responses, Replies, Motions, and other documents required to be filed with the Office of Hearings and Appeals shall be sent to: Office of Hearings and Appeals, U.S. Department of Energy, Room 1E-234, 1000 Independence Avenue, SW, Washington, DC 20585.

Copies of all Notices of Objection, Statements of Objections and all other documents filed by an aggrieved person or other participant shall be served on the same day as filed, on the following person in each of the identified PRO proceedings pursuant to 10 CFR 205.193(c): Jeffrey R. Whieldon, Associate Solicitor, Economic Regulatory Administration, United States Department of Energy, 1000 Independence Avenue, SW, Room 3H-017, Washington, DC 20585.

Issued in Washington, DC this 9th day of September 1987.

Chandler L. van Orman,

Deputy Administrator, Economic Regulatory Administration.

[FR Doc. 87-21466 Filed 9-16-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER87-535-000 et al.]

Electric Rate and Corporate Regulation Filings; Gulf Power Co. et al.

Take notice that the following filings have been made with the Commission:

1. Gulf Power Company

[Docket No. ER87-535-000]

September 10, 1987.

Take notice that on August 14, 1987, Gulf Power Company (Gulf) tendered for filing certain information requested by the Commission Staff pertaining to the calculation of the rate reduction proposed herein on July 13, 1987, which proposal would allow the Company to adjust rate bills to reflect the change in the Federal Income tax rates from 46% to 34% effective July 1, 1987.

Each of the affected wholesale customers has consented to the proposed tariff change as evidence by the executed letters of consent submitted with the filing, and Gulf states that the supplemental calculation information was submitted to each customer before consent.

Comment date: September 24, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Alabama Power Company

[Docket No. ER87-629-000]

September 14, 1987.

Take notice that on September 8, 1987, Alabama Power Company tendered for filing a change in rates for certain transmission services provided to the Alabama Municipal Electric Authority under the provisions of a Partial Requirements Agreement dated February 24, 1986, as amended. The proposed change will reduce the return on common equity component of the formula rate for certain transmission services from 15.0% to 14.0%.

Comment date: September 28, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Alabama Power Company

[Docket No. ER87-625-000]

September 14, 1987.

Take notice that on September 4, 1987, Alabama Power Company filed a rate decrease applicable to certain service provided to Alabama Electric Cooperative, Inc. under the provisions of an Interconnection Agreement dated May 5, 1980, as amended and a Transmission Service Agreement dated August 28, 1980, as amended. The proposed changes reduce the return on common equity components of formula rates adopted in such Interconnection Agreement and Transmission Service Agreement from 15.0% to 14.0%.

Comment date: September 28, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Appalachian Power Company

[Docket No. ER87-619-000]

September 14, 1987.

Take notice that on September 4, 1987, Appalachian Poweer Company (APCO) tendered for filing APCO's contract with the Southeastern Power Administration (SEPA) governing the delivery of SEPA preference power and energy from the Philpott Project to the Cities, of Bedford, Danville, Martinsville, Richlands, Radford and Salem, Virginia (the Virginia Cities). In accordance with the Commission's August 14, 1987 Order in Docket Nos. ER87-105-001 and ER87-106-001, the proposed effective date of APCO's filing is July 1, 1987.

The monthly integration fee of $5,416.67 ($65,000 annually) contained in APCO's filing is designed to compensate APCO for transmitting a portion of the Philpott Project's energy to Virginia Electric and Power Company (Virginia Power), for providing the services necessary to permit the Philpott Project to be operated on an intergrated basis with the John H. Kerr Project, and for administrative expenses that are difficult to quantify. The monthly demand charge of $2.07 per kilowatt-month is designed to compensate APCO for transmitting SEPA preference power to the Virginia Cities. APCO states that it will deliver 12,400 KW to the Virginia Cities on a monthly basis and that it will collect $308,016 in annual revenues under the proposed rate schedule. In addition, APCO will collect $65,000 in

annual revenues for the other services being provided to SEPA.

APCO states that a copy of the filing has been provided to the Southeastern Power Administration, all parties of record in Docket Nos. ER87–105–001 and ER87–106–001, the Virginia State Corporation Commission, the Public Service Commission of West Virginia and the Commission Staff.

Comment date: September 28, 1987, in accordance with Standard Paragraph E at the end of this notice.

5. Connecticut Light & Power Company

[Docket No. ER87–604–000]

September 14, 1987.

Take notice that on September 4, 1987, Connecticut Light & Power Company (CL&P) tendered for filing an amended rate schedule. CL&P states that one of the rate schedules, FERC Rate Schedule No. CL&P 367, should not have been on the list that was filed August 25, 1987.

Comment date: September 28, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. Green Mountain Power Corporation

[Docket No. ER87–613–000]

September 14, 1987.

Take notice that on September 1, 1987, Green Mountain Power Corporation tendered for filing the following revisions to rate schedules on file with the Federal Energy Regulatory Commission:

1. Revised Exhibit A—Procedure for Determination of Fixed Costs to an Agreement Between Green Mountain Power Corporation and UNITIL Power Corp. Regarding the Stony Brook Intermediate Combined Cycle Unit, dated as of March 28, 1986 (Green Mountain Rate Schedule FERC No. 90).

2. Revised Exhibit B—Procedure for Determination of Highgate Converter Station Fixed Costs to Agreement Between Green Mountain Power Corporation and Fitchburg Gas and Electric Company Regarding the Sale of Power from November 1, 1986 Through October 31, 1996 (Green Mountain Rate Schedule FERC No. 91).

3. Revised Exhibit C—Procedure for Determination of Highgate Converter Station Fixed Costs to Agreement Between Green Mountain Power Corporation and UNITIL Power Corp. Regarding the Sale of Power from October 1, 1986 Through October 31, 1990, dated as of June 20, 1986 (Green Mountain Rate Schedule FERC No. 92).

Green Mountain states that each of the subject agreements contains a cost of service formula rate in which the cost of common equity is determined on the basis of the rate of return set by the Vermont Public Service Board for the purpose of establishing Green Mountain's retail electric service rates. Green Mountain has proposed to reduce the rate of return on common equity in these agreements to 14%, effective as of March 1, 1987, concurrently with the date on which that rate of return became effective in Green Mountain's retail rates.

Green Mountain also tendered for filing an Agreement dated August 31, 1987 which amended Green Mountain Rate Schedule FERC No. 92 by increasing the amount of power being sold effective November 1, 1987 from 20 MW to 25 MW, and extending the term of that rate schedule to October 31, 1991.

Comment date: September 28, 1987, in accordance with Standard Paragraph E at the end of this document.

7. Holyoke Water Power Company and Holyoke Power and Electric Company

[Docket No. ER85–689–006]

September 14, 1987.

Take notice that on September 4, 1987, Holyoke Water Power Company (HWP) tendered for filing pursuant to Commission Order issued March 13, 1987 a refund report of refunds made on April 13, 1987 to its customers with interest accrued through that date for the difference between the Company's originally filed rates and the compliance rates.

This report includes the following:

Attachment A: Monthly billing determinants and revenues at proposed and compliance rates for the period April 1, 1986 through April 14, 1987.

Attachment B: Computation of the monthly refunds, including interest, for the monthly billings for the period April 1, 1986 through April 14, 1987.

Copies of this filing have been sent to each of HWP's wholesale customers and to all parties on the Commission's service list.

Comment date: September 28, 1987, in accordance with Standard Paragaph E at the end of this notice.

8. Montaup Electric Company

[Docket No. ER87–615–000]

September 14, 1987.

Take notice that on September 1, 1987, Montaup Electric Company (Montaup) tendered for filing an agreement between itself and the Pascoag, Rhode Island, Fire District (Pascoag) for transmission of Pascoag's entitlement to power from the New York Power Authority (NYPA) pursuant to Montaup's FERC Electric Tariff, Original Volume No. 2. Also tendered for filing is an Exhibit A containing a description of the transmission service.

Montaup requests that the filing be permitted to become effective as of July 1, 1985 when Pascoag's NYPA entitlement commenced. The filing has not occurred until now because Pascoag requested that Montaup wait until filing any transmission rate for delivery of NYPA Power to Pascoag until an agreement had been negotiated with the Massachusetts Municipal Wholesale Electric Company (MMWEC) for transmission of NYPA Power to the towns of Middleborough and Taunton, Massachusetts. That agreement was filed on July 8, 1987 in Docket No. ER87–531–000. The agreement with Pascoag has been prepared, executed, and is being filed, promptly thereafter.

Montaup believes that good cause exists to grant waiver of the 60-day notice requirement in order to insure that Pascoag receives the benefit of NYPA Power from July 1, 1985 for the past period since Pascoag's NYPA entitlement commenced. The waiver will have no adverse effect on Montaup's other customers.

Comment date: September 28, 1987, in accordance with Standard Paragraph E at the end of this notice.

9. Montana Power Company

[Docket No. ER87–624–000]

September 14, 1987.

Take notice that on September 4, 1987, Montana Power Company (Montana) tendered for filing a revised Index of Purchasers, identified as Eleventh Revised Sheet No. 10 under FERC Electric Tariff, 2nd Revised volume No. 1, which has been revised to show the addition of Montana-Dakota Utilities. Also tendered for filing were summaries of sales made under the Company's FERC Electric Tariff, 2nd Revised Volume No. 1, during July 1986 through December 1986 with cost justifications for the rates charged.

Montana requests an effective date of November 1, 1986 for the service agreement between Montana and Montana-Dakota Utilities, and therefore requests waiver of the Commission's notice requirements to allow that agreement to be effective on that date.

Comment date: September 28, 1987, in accordance with Standard Paragraph E at the end of this notice.

10. Montana Power Company

[Docket No. ER87–624–000]

September 14, 1987.

Take notice that on September 4, 1987, Montana Power Company (MPC) tendered for filing pursuant to section 205 of the Federal Power Act (1) an agreement executed on July 23, 1987 (as

amended) for the sale of firm energy to the Sacramento Municipal Utility District during the period from June 15, 1987 through October 1, 1987, and (2) an agreement executed on August 18, 1987, for the sale of firm energy to the Black Hills Power & Light Company during the period of September 11, 1987 through September 27, 1987.

MPC has requested waiver of the notice provisions of § 35.3 of the Commission's regulations in order to permit the agreement to become effective on the dates indicated above in accordance with their terms.

Comment date: September 28, 1987, in accordance with Standard Paragraph E at the end of this notice.

11. Oklahoma Gas and Electric Company

[Docket No. ER87-627-000]

September 14, 1987.

Take notice that on September 4, 1987, Oklahoma Gas and Electric Company (OG&E), P.O. Box 321, Oklahoma City, Oklahoma, 73101, tendered for filing Revised Sheet Nos. 4, 7 and 11 to its FERC ELECTRIC TARIFF, 1st Revised Volume No. 1. The revised rates are contained in proposed Rate Schedules WM-1, WM-2, and WC-1 applicable to municipalities and cooperatives, respectively. Also proposed is a change in the rates charged for wheeling and transmission service agreements with Southwestern Power Administration (SWPA) and Western Farmers Electric Cooperative, Inc., (WFEC) and services provided by the Company to the Oklahoma Municipal Power Authority (OMPA).

The decreased rates that have been proposed by the company are being made to reflect the decrease in the corporate income tax rate pursuant to the Tax Reform Act of 1986 and are proposed to be effective with usage on and after July 1, 1987.

OG&E states that copies of the tariff, rate schedules and the entire filing have been sent to its municipal and cooperative customers, to SWPA, to WFEC, and to OMPA. A complete set of the filing has also been sent to the Corporation Commission of the State of Oklahoma and the Arkansas Public Service Commission.

Comment date: September 28, 1987, in accordance with Standard Paragraph E at the end of this notice.

12. Portland General Electric Company

[Docket No. ER87-628-000]

September 14, 1987.

Take notice that on September 8, 1987, Portland General Electric Company (PGE) tendered for filing a Sales Agreement with Southern California Edison Company, which provides for the sale and purchase during a five-week period from August 24, 1987 through September 25, 1987, a firm energy deliverable at rates not in excess of 200 MW per hour.

The contract rate for energy to be sold is based upon its incremental cost production plus an additional amount for fixed charges (not exceeding fully distributed fixed charges) plus the costs of transmission.

PGE states the reason for the proposed Sales Agreement is to allow it to recover a portion of its fixed charges applicable to certain of its thermal generating resources during a short period of time when such thermal resources are not required for its system loads.

PGE requests an effective date of August 24, 1987 and therefore requests a waiver of the Commission's notice requirements.

Copies of the filing have been served upon Southern California Edison Company and the Oregon Public Utility Commission.

Comment date: September 28, 1987, in accordance with Standard Paragraph E at the end of this notice.

13. Southern Company Services, Inc.

[Docket No. ER87-620-000]

September 14, 1987.

Take notice that on September 4, 1987, Southern Company Services, Inc. on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company (Southern Companies), tendered for filing a change in rates for service schedule B of the Interchange Contract dated February 25, 1982 between Gulf States Utilities Company and Southern Companies. The proposed change would reduce the return on common equity component of the formula rate described in the Allocation Methodology and Periodic Rate Computation Procedure Manual from 15.0% to 14.0% for sales transactions under schedule B.

Comment date: September 28, 1987, in accordance with Standard Paragraph E at the end of this notice.

14. Southern Company Services, Inc.

[Docket No. ER87-621-000]

September 14, 1987.

Take notice that on September 4, 1987, Southern Company Services, Inc. on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company (Southern Companies), tendered for filing a change in rates for Service Schedule B of the Interchange Contract dated February 27, 1981 between Jacksonville Electric Authority and Southern Companies. The proposed change would reduce the return on common equity component of the formula rate described in the Allocation Methodology and Periodic Rate Computation Procedure Manual from 15.0% to 14.0%

Comment date: September 28, 1987, in accordance with Standard Paragraph E at the end of this notice.

15. Southern Company Services, Inc.

[Docket No. ER87-622-000]

September 14, 1987.

Take notice that on September 4, 1987, Southern Company Services, Inc. on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company (Southern Companies), tendered for filing a change in rates for Service Schedule A and Service B of the Interchange Contract dated October 18, 1979 between Florida Power & Light Company and Southern Companies. The proposed change would reduce the return on common equity component of the formula rate described in the Allocation Methodology and Periodic Rate Computation Procedure Manual from 15.0% to 14.9%.

Comment date: September 28, 1987, in accordance with Standard Paragraph E at end of this notice.

16. Southern Electric Generating Company

[Docket No. ER87-626-000]

September 14, 1987.

Take notice that on September 4, 1987, Southern Electric Generating Company tendered for filing a change in rates for the Power Contract dated January 27, 1959, as amended October 27, 1982. Under the Power Contract, Southern Electric Generating Company sells the entire output of its generating units to Alabama Power Company and Georgia Power Company. The proposed change in rates would reduce the return on common equity component of the formula rate included in the Power Contract from 16.9% to 14.9%.

Comment date: September 28, 1987, in accordance with Standard Paragraph E at end of this notice.

17. Washington Water Power Company

[Docket No. ER87-614-000]

September 14, 1987.

Take notice that on September 1, 1987, Washington Water Power Company (Company) of Spokane, Washington, tendered for filing proposed changes in

its FERC Electric Service Tariff, Schedule 61. The proposed changes would increase revenues from jurisdictional sales and service by approximately $999,758 based on the 12-month period ending December 31, 1986. The rate change is proposed to go into effect November 1, 1987.

The proposed rate changes are submitted for the purpose of compensating Washington Water Power Company for increases in power supply cost including the recovery of Colstrip Unit 4 and related costs. The Company is also requesting recovery of its investment related to the Washington Water Power Supply System Nuclear Project No. 3 (WNP-3). Construction has been delayed on the WNP-3 project, however, the company transferred its investment in the WNP-3 plant into an investment in Exchange Power through the negotiation and execution of the Settlement Agreement with the Bonneville Power Administration dated September 17, 1985. The Company began receiving power, under the terms of the Agreement, on January 1, 1987. The Company is requesting a 32.5-year amortization of its investment in Exchange Power with a rate of return allowed on the unamortized balance.

Copies of the filing have been served upon Washington Water Power Company's five wholesale customers affected by this filing.

Comment date: September 28, 1987, in accordance with Standard Paragraph E at end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21531 Filed 9-16-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-881-000 et al.]

Natural Gas Company; Applications for Certificates, Abandonments of Service and Petitions To Amend Certificates [1]; Amoco Production Co et al.

September 14, 1987.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abondon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to the public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 25, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI87-881-000 (CI64-705), B, Sept. 4, 1987.	Amoco Production Company, P.O. Box 800, Room 1754, Denver, Colorado 80201.	Panhandle Eastern Pipeline Company, Miles Unit A No. 1 Sec. 7-T4N-R24E, Pioneer Memorial Park Units 1 and 2, Sec. 6-T4N-R24E, Moacne-Laverne Field, Beaver County, Oklahoma.	[1]	
G-4899-000, D, Sept. 4, 1987	Amoco Production Company, P.O. Box 3092, Houston, Texas 77253.	United Gas Pipe Line Company, West Mustang Island Field, Nueces County, Texas.	[2]	
G-4065-001, D, Sept. 4, 1987	do	Texas Eastern Transmission Corporation, Chocolate Bayou Field, Brazoria County, Texas.	[3]	
CI87-884-000, B, Sept. 8, 1987.	Perkins Energy Co., et al., P.O. Drawer 878, Duncan, Okla. 73534.	Arkla Energy Resources, a division of Arkla, Inc., Northwest Okeene Field, Blaine County, Oklahoma.	[4]	
CI68-993-000, D, Sept. 3, 1987.	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	ANR Pipeline Company, Selman, Field, Harper County, Oklahoma.	[5]	
CI87-882-000, B, Sept. 4, 1987.	Samedan Oil Corporation, P.O. Box 909, Ardmore, Okla. 73402.	El Paso Natural Gas Company, Mocane-Laverne Field, Beaver County, Oklahoma.	[6]	
CI87-874-000, B, Sept. 2, 1987.	Fortune Production Company, P.O. Box 5109, San Angelo, Texas 76902.	Northern Natural Gas Company, Division of Enron Corp., Cheaney (Strawn) & Cheaney (Strawn 4,500 Sand), Schleicher County, Texas.	[7]	
CI87-876-000, B, Aug. 31, 1987.	Clarence W. Mutschelknaus, P.O. Box 351, Salem, W. Va 26426.	Consolidated Gas Transmission Corporation, Central District, Doddridge County, West Virginia.	[8]	
CI87-875-000, B, Aug. 31, 1987.	do	do	[9]	
CI87-878-000 (CI80-375), B, Sept. 3, 1987.	Phillips Petroleum Company, 990-G Plaza Office Bldg., Bartlesville, Okla. 74004.	Locust Ridge Gas Company, MSU Anderson E No. 1 Buckhorn Field, Tensas Parish, Louisiana.	[10]	
CI87-879-000, B, Sept. 3, 1987.	Southland Royalty Company, c/o Meridan Oil Inc., P.O. Box 4239, Houston, Texas 77210.	Northern Natural Gas Company, Division of Enron Corp., Puckett Field, Pecos County, Texas.	[11] [12]	

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI87-833-000, B, Aug. 17, 1987.	Citation Oil & Gas Corp., 16800 Greenspoint Park Dr., Houston, Texas 77060.	El Paso Natural Gas Company, Langlie-Mattix Field, Lea County, New Mexico.	(13)	
CI87-874-000, B, Aug. 17, 1987.	.....do	El Paso Natural Gas Company, Justis, Jalmat & Langlie-Mattix Fields, Lea County, New Mexico.	(14)	
G-3841-000, D, Sept. 8, 1987....	Union Exploration Partners, Ltd., P.O. Box 7600, Los Angeles, Calif. 90051.	United Gas Pipe Line Company, Sligo Field, Bossier Parish, Louisiana.	(15)	
C175-354-001, D, Sept. 8, 1987.	Sun Exploration & Production Co., P.O. Box 2880, Dallas, Texas 75221-2880.	United Gas Pipe Line Company, Abbeville Field, Vermilion County, Louisiana.	(16)	
G-6613-001, B, Aug. 31, 1987...	Union Pacific Resources Company, 1400 Smith Street—Suite 1500, Houston, Texas 77002.	Williams Natural Gas Company, West Edmond Field, Logan County, Oklahoma.	(17)	

[1] The only three wells under this contract have been plugged and abandoned in 1985 due to lack of production.
[2] State Tract 45-47, Unit Tract 470 sold effective 6-1-87, to Atlantic Richfield Company.
[3] The Houston Farms Unit has been abandoned for several years. All acreage has expired and Amoco no longer has an interest in the Chocolate Bayou Field.
[4] Basic contract expires by its own term 9-15-87. Purchaser has terminated the contract by not purchasing the quantity of gas required by the contract. Good faith negotiations under FERC Order 451 were unsuccessful; purchaser did not respond.
[5] Assignment of dedicated acreage effective 11-1-86 to Essex Exploration Co.
[6] Depletion of reserves.
[7] Gathering Company, Corpening Enterprises, ceased to operate the pipeline.
[8] Applicant is requesting abandonment of service under its contract No. 4604 for the Piggott Wells only. Applicant states that it needs a compressor on the Piggott Wells and that Applicant was denied permission by Consolidated Gas to install a compressor. When this gas is released from Consolidated Gas, said gas will be sold to Equitable Gas.
[9] Applicant is requesting abandonment of service under its contract No. 3069 for its Well No. (47-017-01247) only. Applicant states that it needs a compressor on this well, and that Applicant was denied permission by Consolidated Gas to install a compressor. When this gas is released from Consolidated Gas, said gas will be sold to Equitable Gas.
[10] Phillips Petroleum Company and Locust Ridge Gas Company have entered into a new Gas Purchase Contract. This contract replaces that agreement dated 4-21-81, which was a flat rate type contract. The new agreement is a percentage-of-proceeds type contract which provides that the buyer shall pay the seller a percentage of the resale price per MMBtu received by the buyer from the buyer's customer to whom the seller's gas is resold.
[11] Contract expired by it's own term on 6-8-86, and limited sales continued absent a contract until Purchaser requested termination.
[12] Additional information received August 31, 1987.
[13] Applicant requests authorization for permanent abandonment of a sale of gas to El Paso. Applicant also requests a three-year pregranted abandonment for sales of the released gas for resale in interstate commerce under its small producer certificate issued in Docket No. CS86-92-000.
In support of its application Applicant states that the primary term of the contract has expired and that El Paso is no longer willing to purchase the gas under the terms of such agreement. Applicant states that deliverability is 3-4 Mcf/day and that the June 1987, price for the gas was $1.40/Mcf.
[14] Applicant requests authorization for permanent abandonment of a sale of gas to El Paso. Applicant also requests a three-year pregranted abandoment for sales of the released gas for resale in interstate commerce under its small producer certificate issued in Docket No. CS86-92-000.
In support of its application Applicant states that the primary term of the contract has expired and that El Paso is no longer willing to purchase the gas under the terms of such agreement. Applicant states that deliverability is 1,168 Mcf/day and that the June 1987, price for the gas was 96.3 cents/Mcf.
[15] Union Exploration Partners, Ltd. assigned certain leases under Docket No. G-3841 to KFL Operating, Inc.
[16] Expiration of leases.
[17] By assignment dated July 1, 1987, Applicant conveyed all of its interest in the contract dated March 21, 1949 to Midstates Pipeline Company.
Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 87-21523 Filed 9-16-87; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP87-134-000]

Application; ANR Pipeline Co.

September 11, 1987.

Take notice that on September 1, 1987 ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243 (Applicant), filed in docket No. RP87-134-000, the following tariff sheets which will put into effect, on October 1, 1987, an "Annual Charge Adjustment Clause" pursuant to Order No. 472 of the Federal Energy Regulatory Commission (FERC):

Original Volume No. 1

Twelfth Revised Sheet No. 18
Alternate Twelfth Revised Sheet No. 18
Second Revised Sheet No. 85
Original Sheet No. 86

Original Volume No. 1-A

Second Revised Sheet No. 16
First Revised Sheet No. 17
Second Revised Sheet No. 26
Second Revised Sheet No. 38
Second Revised Sheet No. 48
First Revised Sheet No. 58
Second Revised Sheet No. 66

Original Volume No. 2

Second Revised Sheet No. 16
Second Revised Sheet No. 17
Second Revised Sheet No. 18
Second Revised Sheet No. 19
Third Revised Sheet No. 20
Third Revised Sheet No. 21

ANR also states that inclusion in its rates of the annual charge to ANR by the FERC pursuant to Order No. 472 is an issue in ANR's presently ongoing Docket No. RP86-169 proceeding, and that if an allowance for such amount of charge is specifically approved therein as a component of the rates approved therein, ANR plans to file to eliminate the subject tariff sheets provisions and ACA charge, effective on the effective date of such rates approved in Docket No. RP86-169.

Any person desiring to be heard or to make any protest with reference to the above referenced filing should on or before September 18, 1987, file with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21533 Filed 9-16-87; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. FA87-71-000]

Filing; Cambridge Electric Light Co.

September 14, 1987.

Take notice that on August 14, 1987, Cambridge Electric Light Company (Company) tendered for filing an Offer of Settlement in response to the Commission's order in *Iowa-Illinois Gas and Electric Company* Docket No. FA84-46-001 39 FERC par. 61.055 (1987), wherein the Commission invited utilities that have included Spent Nuclear Fuel Disposal Costs (SNFDC) in their

wholesale fuel adjustment clauses (FAC), without explicit prior Commission approval, to propose a settlement to resolve cases of noncompliance with the Commission's fuel clause regulation, 18 CFR Part 35.14.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 28, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21534 Filed 9-16-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-139-000]

Tariff Filing; El Paso Natural Gas Co.

September 11, 1987.

Take notice that on September 8, 1987, El Paso Natural Gas Company ("El Paso") filed, pursuant to Part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act, the following tariff sheets to its FERC Gas Tariff:

Tariff Volume and Tariff Sheet

First Revised Volume No. 1
- Fifteenth Revised Sheet No. 100
- Third Revised Sheet No. 100-A
- Substitute Original Sheet No. 300
- Original Sheet No. 375
- Original Sheet Nos. 376 through 399

Original Volume No. 1-A
- Fourth Revised Sheet No. 20
- Second Revised Sheet No. 200
- Original Sheet No. 238
- Original Sheet Nos. 239 through 299

Third Revised Volume No. 2
- Thirty-ninth Revised Sheet No. 1-D
- Nineteenth Revised Sheet No. 1-D.2

Original Volume No. 2A
- Forty-first Revised Sheet No. 1-C

El Paso states that the tendered tariff sheets, when accepted and permitted to become effective, will add an annual charge adjustment provision to El Paso's FERC Gas Tariff and increase certain of El Paso's sales and transportation rates by $.0020 per dth ($.0021 per Mcf) as authorized by the Commission's Final Rule (Order No. 272) issued May 29, 1987 at Docket No. RM87-3-000.

El Paso Requested, pursuant to § 154.51 of the Commission's Regulations, waiver of the notice requirements of § 154.22 of the Commission's Regulations and any other of the Commission's applicable rules, regulations and orders as may be necessary to permit the tendered tariff sheets to become effective on October 1, 1987.

El Paso states that copies of the filing have been served upon all of its interstate pipeline system customers and all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with §§ 385.214 and 385.211 of this Chapter. All such motions or protests should be filed on or before September 18, 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. 87-21535 Filed 9-16-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-883-000]

Application of Meridian Oil Trading Inc. for Blanket Sales Certificate With Pre-Granted Abandonment

September 14, 1987.

Take Notice that on September 4, 1987, Meridian Oil Trading Inc. ("MOTI"), pursuant to sections 4 and 7 of the Natural Gas Act, 15 U.S.C. 717c and 717f, and the provisions of 18 CFR Part 157, applied for a blanket certificate of public convenience and necessity and for pre-granted abandonment to permit the interstate sale for resale, and pre-granted abandonment of such sale, of natural gas which remains subject to the Commission's jurisdiction under the Natural Gas Act ("NGA"). MOTI states that it is seeking authority to resell natural gas abandoned pursuant to Commission orders authorizing producer abandonment and gas not previously sold in interstate commerce but which, if sold by MOTI in interstate commerce for resale, would require a certificate of public convenience and necessity. MOTI states that it is not seeking such authority with regard to any dedicated interstate gas for which abandonment has not been authorized by Commission order, nor is it seeking any transportation authority.

MOTI requests blanket authorization for a period of one year. MOTI requests waiver of certain filing requirements in order to permit it to respond to rapidly changing spot market conditions.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 25, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Under the procedures herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at any hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21536 Filed 9-16-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA87-3-26-002 and TA85-1-26-014]

Changes in Rates; Natural Gas Pipeline Company of America

September 11, 1987.

Take notice that on September 8, 1987, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the below listed tariff sheets to be effective as indicated below:

	Effective date
Second Substitute Sixty-sixth Revised Sheet No. 5	9/1/87
Second Substitute Thirty-third Revised Sheet No. 5A	9/1/87
Substitute Sixty-seventh Revised Sheet No. 5	10/1/87
Substitute Thirty-fourth Revised Sheet No. 5A	10/1/87

Natural states that the tariff sheets to be effective September 1, 1987 are being revised to comply with Ordering Paragraph (B) of the Commission's August 27, 1987 order in Docket Nos. TA87-3-26-000 (PGA87-3) (IPR87-2) and TA85-1-26-001. Paragraph (B) required Natural to file within thirty days of the order revised tariff sheets in compliance with the Commission's Opinion Nos. 256 and 256A. The tariff sheets to be effective October 1, 1987 are substitutes for corresponding sheets originally filed August 31, 1987 to initiate an Annual Charges Adjustment (ACA). These sheets were revised to reflect the rate adjustments effective September 1.

Natural states that the overall effect of the instant filing reduces Natural's DMQ-1 demand and entitlement rates by $.11 and .52¢, respectively, while increasing Natural's DMQ-1 commodity rate by 4.70¢. Corresponding adjustments were made to Natural's other rates and charges to maintain the same rate design relationship. There is no net revenue change on an annual basis as the instant filing results in a transfer of $9.4 million from the demand components of Natural's rates to the commodity component.

A copy of this filing is being mailed to Natural's jurisdictional customers and interested State regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214. All such motions or protests must be filed on or before September 18, 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. 87-21537 Filed 9-16-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-38-000]

Change in Rate Schedule S-1 Tariff Provision; Natural Gas Pipeline Company of America

September 11, 1987.

Take notice that on September 4, 1987, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the below listed tariff sheet to be effective November 1, 1987:

Eighth Revised Sheet No. 27

Natural states the purpose, as more fully explained in the filing, is to amend Natural's Rate Schedule S-1 to allow the customers, subject to Natural's authorization, the opportunity to elect to withdraw gas during the winter period on days they are not taking their full Daily Entitlement under Rate Schedule DMQ-1 as currently provided.

A copy of this filing is being mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214. All such motions or protests must be filed on or before September 18, 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 wishin 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. 87-21538 Filed 9-16-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-2999-001 et al.]

Change in Name; Union Pacific Resources Co.

September 14, 1987.

Take notice that on August 25, 1987, Union Pacific Resources Company (UPRC) of 800 Cherry Street, Fort Worth, Texas 76102, filed a notice of change in name requesting that the Commission take notice of a change in name for certificates of public convenience and necessity and the redesignation of rate schedules heretofore issued to Champlin Petroleum Company or designated in the name Champlin Petroleum Company, all as more fully shown on the attached Exhibit II. In addition, UPRC requested that the Commission proceedings in which Champlin Petroleum Company was heretofore a party-applicant or party-respondent reflect the name change. This application is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 25, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for UPRC to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Exhibit II

LIST OF CERTIFICATE PROCEEDINGS, RATE SCHEDULES AND COMMISSION PROCEEDINGS OF UNION PACIFIC RESOURCES COMPANY

FERC GRS No.	Purchaser	Docket No.
1	Columbia Gas Transmission	G-2999
2	Texas Eastern Transmission Corp.	G-2999
3	Tennessee Gas Pipeline Company	G-2999
4	Tennessee Gas Pipeline Company	G-2999
5	Tennessee Gas Pipeline Company	G-2999
6	Tennessee Gas Pipeline Company	G-2999
7	Tennessee Gas Pipeline Company	G-19848
8	Tennessee Gas Pipeline Company	G-2999

LIST OF CERTIFICATE PROCEEDINGS, RATE SCHEDULES AND COMMISSION PROCEEDINGS OF UNION PACIFIC RESOURCES COMPANY—Continued

FERC GRS No.	Purchaser	Docket No.
9	Tennessee Gas Pipeline Company	G-2999
11	United Gas Pipeline	G-2999
16	Tennessee Gas Pipeline Company	G-2999
17	Tennessee Gas Pipeline Company	G-2999
18	Tennessee Gas Pipeline Company	G-2999
21	Tennessee Gas Pipeline Company	G-2999
22	Tennessee Gas Pipeline Company	G-2999
27	Texas Eastern Transmission Corp	G-11481
28	Williams Natural Gas Company	G-19584
41	Northern Natural Gas Company	G-6613
42	Northern Natural Gas Company	G-6613
43	Northern Natural Gas Company	G-6613
44	Northern Natural Gas Company	G-6613
53	Williams Natural Gas Company	G-6613
59	Colorado Interstate Gas Company	G-9490
64	Williams Natural Gas Company	G-10665
65	Colorado Interstate Gas Company	G-10723
66	Colorado Interstate Gas Company	G-11150
67	Colorado Interstate Gas Company	G-18171
68	Northern Natural Gas Company	G-12173
69	Panhandle Eastern Pipeline	G-12356
70	Northern Natural Gas Company	G-14380
71	Natural Gas Pipeline Company of America	G-14830
72	Panhandle Eastern Pipeline	G-16822
74	K N Energy, Inc	G-6613
75	Williams Natural Gas Company	G-69249
76	Williams Natural Gas Company	G-16993
83	Mountain Fuel Resources, Inc	CI-61-215
85	Natural Gas Pipeline Company of America	CI61-746
86	ANR Pipeline Company	CI61-1002
88	Williams Natural Gas Company	CI61-920
89	Williams Natural Gas Company	CI61-215
90	Panhandle Eastern Pipeline	CI61-1426
91	Zenith Natural Gas Company	CI61-108
92	Mesa Operating Limited Partnership	CI62-1389
93	Williams Natural Gas Company	CI64-221
94	K N Energy, Inc	CI64-378
97	Tennessee Gas Pipeline Company	CI66-1029
98	Northern Natural Gas Company	CI67-584
99	Northern Natural Gas Company	CI67-1855
101	El Paso Natural Gas	CI68-651
102	Northern Natural Gas Company	CI68-729
104	Panhandle Eastern Pipeline	CI69-1053
105	Panhandle Eastern Pipeline	CI70-672
106	Marathon Oil Company	CI70-1096
107	Marathon Oil Company	CI70-1116
108	Arkansas Louisiana Gas Company	CI71-384
109	Mountain Fuel Resources, Inc	G-6213
110	Mountain Fuel Resources, Inc	G-6213
111	Colorado Interstate Gas Company	G-10476
112	Colorado Interstate Gas Company	C161-1442
113	Colorado Interstate Gas Company	CI-418
114	Colorado Interstate Gas Company	CI64-921
115	Colorado Interstate Gas Company	CI67-1053
116	Colorado Interstate Gas Company	CI67-1238
117	Colorado Interstate Gas Company	CI167-1426
118	Colorado Interstate Gas Company	G-19226
119	Mountain Fuel Resources, Inc	CI68-1178
120	Colorado Interstate Gas Company	CI70-1
121	Colorado Interstate Gas Company	CI72-34
122	Northern Natural Gas Company	CI72-340
124	Mountain Fuel Resources, Inc	CI72-566
125	Mountain Fuel Resources, Inc	CI72-567
126	Panhandle Eastern Pipeline	CI72-487
127	Colorado Interstate Gas Company	CI72-768
128	Colorado Interstate Gas Company	CI73-69
129	Tennessee Gas Pipeline Company	CI73-182
130	El Paso Natural Gas	CI73-211
133	Northern Natural Gas Company	CI73-479

LIST OF CERTIFICATE PROCEEDINGS, RATE SCHEDULES AND COMMISSION PROCEEDINGS OF UNION PACIFIC RESOURCES COMPANY—Continued

FERC GRS No.	Purchaser	Docket No.
134	Southern Natural Gas Company	CI74-352
135	Williams Natural Gas Company	CI74-755
136	El Paso Natural Gas	CI75-70
137	Mountain Fuel Resources, Inc	CI75-84
138	Williams Natural Gas Company	CI75-599
139	Colorado Interstate Gas Company	CI75-716
140	Colorado Interstate Gas Company	CI76-100
143	Colorado Interstate Gas Company	CI76-135
144	Colorado Interstate Gas Company	CI76-138
145	El Paso Natural Gas	CI76-576
146	Colorado Interstate Gas Company	CI76-742
147	Western Gas Processors, Ltd	CI76-779
148	Panhandle Eastern Pipeline Company	CI77-24
149	El Paso Natural Gas	CI76-713
150	El Paso Natural Gas	CI77-452
151	Colorado Interstate Gas Company	CI77-763
153	Mountain Fuel Resources, Inc	CI78-908
156	Sea Robin Pipeline Company	CI79-648
157	Natural Gas Pipeline Company of America	CI80-308
158	Panhandle Eastern Pipeline	CI81-447
159	Arkansas Louisiana Gas Company	CI82-232
160	Mississippi River Transmission Corp	CI75-633
161	Mississippi River Transmission Corp	CI76-166
162	Mississippi River Transmission Corp	CI76-654
163	Mississippi River Transmission Corp	CI76-705
164	Mississippi River Transmission Corp	CI77-20
165	Mississippi River Transmission Corp	CI77-286
166	Mississippi River Transmission Corp	CI77-709
167	Mississippi River Transmission Corp	CI78-902
168	Amoco Gas Company	CI84-117

Other Proceedings: GP80-41, GP80-43, GP85-47, GP85-47-000, GP86-14-000, CI86-136-000, CI86-418-000, CI87-127-000, CI87-314-000, CI87-500-000, TA81-1-32, TA83-1-32-002, TA84-1-32, TA84-2-55-000,TA85-1-18-000, TA85-1-18-003, TA85-1-32, TA85-1-32-000, TA86-1-26-000, TA86-1-32, TA86-1-32-000, TA86-1-32-001, TA86-2-55-000-001, TA86-2-55-003, TA86-3-59-006, TA87-1-32-003, TA87-1-55, TA87-2-55-000,001, IN83-1, IN83-2, PL87-3-000, RA83-9-000, RM80-8, RM82-32, RM83-53, RM84-6, RM85-1, RM86-3, RM87-16-000, SA85-18-000, CP81-328-003, CP82-54-001, CP82-547-003, CP83-131-000, CP83-131-004, CP83-179-000, CP84-29-000, CP84-716-000, CP85-123-000, CP85-398-000, CP85-552-000, CP86-163-000, CP86-232-000, CP86-275-000, CP86-286, CP86-286-000, CP86-299, CP86-377-000, CP86-507-000, CP86-508-000, CP86-518-000, CP86-534-000, CP86-578, CP86-578-000 CP86-585, CP86-585-000, CP86-589, CP86-589-000, CP86-648-000, CP86-717-000, CP86-720-000, CP87-115-000, CP87-165-000, RP82-10-012, RP82-54-000, RP82-56, RP82-71-000, RP83-74-000, RP83-109, RP83-109-000, RP84-7-000, RP84-15-000, RP84-111-000, RP85-13-000, RP85-65, RP85-122-000, RP85-178-000, RP85-187-000, RP85-206-000, RP85-206-002, RP85-206-006, RP86-7-001, RP86-87-000,001, RP86-92-000, RP86-104, RP86-104-000, RP86-119-000, RP86-144-000, RP86-162-000, RP87-2-000, RP87-26-000, RP87-30-000.

[FR Doc. 87-21539 Filed 9-16-87; 8:45am]
BILLING CODE 6717-01-M

FARM CREDIT ADMINISTRATION

[Farm Credit Administration Order No. 878]

Authority Delegations; Authorization To Authenticate Documents, Certify Official Records, and Affix Seal

AGENCY: Farm Credit Administration.

ACTION: Notice.

SUMMARY: The Chairman of the Farm Credit Administration issued Order No. 878 authorizing certain employees to authenticate documents, certify official records, and affix seal. The text of the Order is as follows:

1. Isla B. Marsden, Assistant to the Chairman, Debra Buccolo, Assistant to the General Counsel, and Cindy R. Nicholson, Paralegal Specialists for the Office of General Counsel, individually, are authorized and empowered:

a. To execute and issue under the seal of the Farm Credit Administration, statements (1) authenticating copies of, or excerpts from official records and files of the Farm Credit Administration; (2) certifying, on the basis of the records of the Farm Credit Administration, the effective periods of regulations, orders, instructions, and regulatory announcements; and (3) certifying, on the basis of the records of the Farm Credit Administration, the appointment, qualification, and continuance in office of any officer or employee of the Farm Credit Administration, or any conservator or receiver acting under the supervision or direction of the Farm Credit Administration.

b. To sign official documents and to affix the seal of the Farm Credit Administration thereon for the purpose of attesting the signature of officials of the Farm Credit Administration.

2. The provisions of this Order shall be effective immediately and shall supersede Farm Credit Administration Order No. 865 dated August 4, 1986 (51 FR 27912, August 4, 1986) which is revoked.

Dated: September 14, 1987.

Frank W. Naylor, Jr.,

Chairman, Farm Credit Administration Board.

[FR Doc. 87-21556 Filed 9-16-87; 8:45 am]
BILLING CODE 6705-01-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

September 9, 1987.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transciption Service, (202) 857–3800, 2100 M Street NW, Suite 140, Washington, DC 20037. For further information on this submission contact Terry Johnson, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on this information collection should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–4814.

OMB Number: 3060–0053
Title: Application for Consent to Transfer Control of Corporation Holding Station License
Form Number: FCC 703
Action: Extension
Respondents: Business (including small businesses)
Frequency of Response: On occasion
Estimated Annual Burden: 907 Responses: 453 Hours
Needs and Uses: FCC Rules require that applicants in the Private Land Mobile, GMRS, Microwave, Coast and Ground Services submit FCC Form 703 whenever it is proposed to change, as by transfer of stock ownership, the control of a station. The data is used to determine continued eligibility for licensees. Without this information, violations of ownership regulations could occur.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87–21410 Filed 9–16–87; 8:45 am]

BILLING CODE 6712–01–M

Specialized Mobile Radio Service Frequencies To Be Available for Reassignment

August 31, 1987.

The following channels were recently recovered from licensees who failed to meet the Commission's loading or construction requirements and will be available for reassignment to trunked Specialized Mobile Radio (SMR) applicants. They were previously licensed at the coordinates indicated and are available at any location within the geographic area which will protect existing SMR systems pursuant to Rules 90.362 and 90.621.

856/860.0375 MHz, Baldi, WA, 47–13–10 North, 121–50–31 West
856/860.5875 MHz, Liberty, TX, 30–05–39 North, 94–45–50 West
856/860.5875 MHz, Pflugerville, TX, 30–26–58 North, 97–39–44 West
856/860.5375 MHz, Boston, MA, 42–20–48 North, 71–27–00 West
856.6875, 857.6875, 858.6875, 860.6875 MHz, Boulder, CO, 39–54–48 North, 105–17–32 West
856/860.5625 MHz, Sarasota, FL, 27–20–05 North, 82–28–21 West
859/860.5125 MHz, Waltham, MA, 42–23–17 North, 71–15–09 West
856/860.5625 MHz, Washington, DC, 38–57–01 North, 77–04–47 West

Pursuant to the Public Notice of January 6, 1986, Mimeo No. 1805, these channels will be available for reassignment on September 30, 1987. All applications received before September 30, 1987 will be dismissed. The first application received after the channels become available for reassignment opens the filing window. The window stay open only for the day on which the first application is received. *All applications MUST reference the date and DA number of this Public Notice in order to be considered for these frequencies.*

There is a $30.00 fee required for each application filed. All checks should be made payable to the FCC. Applications should be mailed to: Federal Communications Commission, 800 Megahertz Service, P.O. Box 360416M, Pittsburgh, PA 15251–6416. Applications may also be filed in person between 9:00 AM and 3:00 PM at the following address: Federal Communications Commission, c/o Mellon Bank, Three Mellon Bank Center, 525 William Penn Way, 27th Floor, Room 153–2713, Pittsburgh, PA 15259, Attention: (Wholesale Lockbox Shift Supervisor).

For further information, refer to Public Notice of January 6, 1986 or contact Riley Hollingsworth or Betty Woolford (202) 632–7125 of the Private Radio Bureau's Land Mobile and Microwave Division.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87–21411 Filed 9–16–87; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Hearing; Garcia Communications et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant	City/State	File No.	MM Docket No.
A. Garcia Communications.	El Centro, CA.	BPCT–870331QJ	76–354
B. SICC Holding Corp.	El Centro, CA.	BPCT–870602KH	
C. La Paz Wireless Corp.	El Centro, CA.	BPCT–870602KI	
D. Imperial Valley Broadcasting.	El Centro, CA.	BPCT–870602KJ	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicant(s)
1. Air Hazard	A,B,C,D
2. Rule 73.685	B,D
3. Comparative	A,B,C,D
4. Ultimate	A,B,C,D

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 87–21412 Filed 9–16–87; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Hearing; GNOL Broadcasting, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant	City/State	File No.	MM Docket No.
A. GNOL Broadcasting, Inc.	Morganton, NC.	BPCT-861030KG	87-82
B. Dr. James Wingate.	Morganton, NC.	BPCT-861114KJ	
C. Cynthia Blair d/b/a Tar Hill Television.	Morganton, NC.	BPCT-861216IG	
D. R. L. Bush	Morganton, NC.	BPCT-861216II	
E. John J. Garofalo d/b/a Skyway Television.	Morganton, NC.	BPCT-861216IJ	
F. Joel J. Kinow, Jr.	Morganton, NC.	BPCT-861216IK	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicant(s)
Air hazard	A, B, C, D, E, F
Minimum separations	D
Comparative	A, B, C, D, E, F
Ultimate	A, B, C, D, E, F

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 87-21413 Filed 9-16-87; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Great Plains Educational Trust and Minnesota Public Radio, Inc.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Great Plains Educational Trust	Brookings, South Dakota	BPED-840416II	87-368
B. Minnesota Public Radio, Inc.	Appleton, Minnesota	BPED-840604IA	

Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347 (May 29, 1986). The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicants
1. 307(b)—Noncommercial Educational	A and B
2. Contingent Comparative—Noncommercial Educational FM.	A and B
3. Ultimate	A and B

3. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87-21414 Filed 9-16-87; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Tamara Klindworth et al.

1. The Commission has before it the following mutually exclusive appplications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Tamara Klindworth	Worthington, MN	BPH-850710MG	87-369
B. Guderian Broadcasting, Inc	Worthington, MN	BPH-850712NM	
C. KOVA Communications, A Limited Partnership	Worthington, MN	BPH-850712NR	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicants
1. City Coverage	B
2. Air Hazard	A, B
3. Comparative	A, B, C
4. Ultimate	A, B, C

3. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87-21415 Filed 9-16-87; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; RSO Broadcasting et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant	City/State	File No.	MM Docket No.
A. Richard S. Ohendalski d/b/a RSO Broadcasting	Perry, Georgia	BPCT-861216IT	87-353
B. Perry Television, Inc	Perry, Georgia	BPCT-870317KH	
C. Radio Perry, Inc	Perry, Georgia	BPCT-870317KI	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicants
Multiple Ownership	C
Air Hazard	B, C
Comparative	A, B, C
Ultimate	A, B, C

See Appendix.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 87-21416 Filed 9-16-87; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Seaboard Broadcasting Co. et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and State	File No.	MM Docket No.
A. Seaboard Broadcasting Company, Richmond, VA.	BPH-851115NG	87.352.
B. Eunice Wilder and Sheridan Broadcasting Corp. d/b/a Weyburn Broadcasting Limited Partnership, Richmond, VA.	BPH-851213MN	
C. HV Partners, Richmond, VA.	BPH-851213MO	
D. WKIE-FM, Inc., Richmond, VA.	BPH-851216OA	
E. Richmond FM Group Limited Partnership, Richmond, VA.	BPH-851216OB	
F. Richmond Radio Limited Partnership, Richmond, VA.	BPH-851216OC	
G. Sally R. Eldred, Richmond, VA.	BPH-851216OD	
H. Richmond Radio Group, Ltd., Richmond, VA.	BPH-851216OE	
I. Thomas Christopher Gullett tr/as Radio Richmond, Richmond, VA.	BPH-851216OF	
J. Kasbah Communications Corporation, Richmond, VA.	BPH-851216OG	
K. Greater Richmond Radio, Ltd., Richmond, VA.	BPH-851216OH	
L. FM Richmond Limited Partnership, Richmond, VA.	BPH-851216OI	
Richmond Educational Foundation, Inc., Richmond, VA.	BPH-851216OK	
N. Guernica Radio, Inc., Richmond, VA.	BPH-851216OL	
O. Bertram Broadcasting Group, Richmond, VA.	BPH-851216OM	
P. Barbara B. Benns, Richmond, VA.	BPH-851216ON	
Q. James River Communications Corporation, Richmond, VA.	BPH-851216OO	
R. Nicholas Broadcasting, Richmond, VA.	BPH-851216OP	
S. Innovative Broadcasting, Inc., Richmond, VA.	BPH-851216OQ	
T. Robert Fish, Richmond, VA.	BPH-851216OR	
U. Commonwealth Communications, A Limited Partnership, Richmond, VA.	BPH-851216OS	
V. Minority Broadcasting Corporation, Richmond, VA.	BPH-851216OT	
W. Eighty-Ninety Broadcast, Inc. Richmond, VA.	BPH-851216OU	
X. Future Broadcast Limited Partnership, Richmond, VA.	BPH-851216OV	
Y. Honeycomb Broadcasting, Inc., Richmond, VA.	BPH-851216OW	
Z. Witjo Broadcasting, Inc., Richmond, VA.	BPH-851216OX	
AA. Richmond Hispanic Radio, Inc., Richmond, VA.	BPH-851216OY	
BB. Richmond Christian Radio, Inc., Richmond, VA.	BPH-851216OZ	
CC. One Hundred One Broadcasting, Inc., Richmond, VA.	BPH-851216QA	
DD. Penny Drucker, Richmond, VA.	BPH-851216QB	
EE. Richmond Broadcasting Associates, Richmond, VA.	BPH-851216QC	
FF. Capitol Cities Broadcasting Company, Richmond, VA.	BPH-851216QD	
GG. Virginia Communications Limited Partnership, Richmond, VA.	BPH-851216QE	
HH. Helen S. and Eugene D. Pearson d/b/a Mt. Zion Broadcasting, Richmond, VA.	BPH-851216QF	
II. Recardo A. Foy, Richmond, VA.	BPH-860210ML	Dismissed.

2. Pursuant to 47 U.S.C. 309(e), the above applications have been designated for hearing in a consolidated proceeding upon the issues whose heading are set forth below. The text of each of these issues has been standardized and is set forth in its entirely under the corresponding heading at 51 FR 19347 (May 29, 1986). The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicants

1. (See Appendix), U
2. Main Studio C,H,O,EE
3. Environmental, B,C,H,I,K,N,O,Q,T,AA,BB,CC,GG,HH
4. Air Hazard, B,I,K,M,Q,T,Y,AA,CC,GG,HH
5.Comparative, A—HH
6. Ultimate, A—HH

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transporation Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

1 (a). To determine, in light of the facts and circumstances surrounding the issue designated in the Morehead, North Carolina, proceeding, (MM Docket 86–300), whether Webber sought to engage in the "trafficking" of the constructon permit for Station WHMU–TV, Belmont, North Carolina.

1 (b). To determine, in light of the facts adduced pursuant to issue (a), above, whether Webber and hence U(Commonwealth) possess the basic qualifications to be a licensee of the facilities sought here.

[FR Doc. 87–21417 Filed 9–16–87; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Harold S. Schwartz et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city/State	File No.	MM Docket No.
A. Harold S. Schwartz, Brigham City, UT.	BPH–850712ZM	87–367
B. Susan Lundborg, Brigham City, UT.	BPH–850712ZO	.....
C. Golden Bear Communications, Brigham City, UT.	BPH–850712Z2 (DISMISSED)	.....

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicants

1. Comparative, A, B
2. Ultimate, A, B

3. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87–21418 Filed 9–16–87; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Western Telecasting Co.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant, city/State	File No.	MM Docket No.
A. Western Telecasting Company, Jackson, WY.	BPCT–860926KN	87–57
B. William L. Cook, II, Jackson, WY.	BPCT–861117KR	.....
C. Bear Broadcasting, Ltd., Jackson, WY.	BPCT–861117KW	.....

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

Air Hazard, A
Comparative, A, B, C
Ultimate, A, B, C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 87–21419 Filed 9–16–87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

President's Advisory Committee on Mediation and Conciliation; Meeting

Pursuant to section 10 of the Federal Advisory Committee Act (Pub. L. 92–463, as amended) notice is hereby given that a meeting of the President's Advisory Committee on Mediation and Conciliation will be held on Monday, October 5, 1987 from 9:00 a.m. to 5:00 p.m., Tuesday, October 6, 1987 from 9:00 a.m. to 5:00 p.m., and Wednesday, October 7, 1987 from 9:00 on to 5:00 p.m., in the second floor Davidson Room of the Hyatt Regency Hotel, 7th and Union Streets, Nashville, Tennessee 37219. The purpose of the meeting is to obtain the views of representatives of labor and management, and other qualified individuals, with regard to labor-management goals and objectives expected to be achieved within a period of five years. A hearing procedure will be followed in which the views of witnesses will be transcribed for the record.

The meeting will be open to the public. Interested persons may file written statements with the Committee, and subject to reasonable Committee procedures may also make oral statements on matters germane to subjects under consideration at the meeting.

Further information regarding this meeting may be obtained from Mr. Dennis R. Minshall, Executive Director, President's Advisory Committee on Mediation and Conciliation, Federal Mediation and Conciliation Service, 2100 K Street NW., Washington, DC 20427, or call (202) 653–5290.

Dated: September 11, 1987.

Kay McMurray,

Director, Federal Mediation and Conciliation Service.

[FR Doc. 87-21457 Filed 9-16-87; 8:45]

BILLING CODE 6372-01-M

FEDERAL RESERVE SYSTEM

Formations of; Acquisitions by; and Mergers of Bank Holding Companies; Dublin Bancshares, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless othersise noted, comments regarding each of these applications must be received not later than October 6, 1987.

A. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Arkard Street, Dallas, Texas 75222:

1. *Dublin Bancshares, Inc.*, Dublin, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of First National Bank of Dublin, Dublin, Texas.

2. *First Canyon Bancorporation, Inc.*, Canyon, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First Canyon Bancshares, Inc., Canyon, Texas, and thereby indirectly acquire The First National Bank in Canyon, Canyon, Texas.

Board of Governors of the Federal Reserve System, September 11, 1987.

James McAfee,

Association Secretary of the Board.

[FR Doc. 87-21401 Filed 9-16-87; 8:45 am]

BILLING CODE 6210-01-M

Formations of; Acquisitions by; and Mergers of Bank Holding Companies; Marion Bancshares Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserver 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 6, 1987.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Marion Banchares Incorporated*, Marion, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of Marion Bank and Trust Company, Marion, Alabama.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 320 South LaSalle Street, Chicago, Illinois 60690:

1. *Oxford Financial Corporation*, Elmhurst, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Addison State Bank, Addison, Illinois. Comments on this application must be received by September 30, 1987.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Elkcorp, Inc.*, Clyde, Kansas; to become a bank holding company by acquiring 80 percent of the voting shares of The Elk State Bank, Clyde, Kansas.

Board of Governors of the Federal Reserve System, September 11, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-21402 Filed 9-16-87; 8:45]

BILLING CODE 6210-01-M

Acquisition of Company Engaged in Permissible Nonbanking Activities; Nationwide Bankshares, Inc.

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 6, 1987.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President)

925 Grand Avenue, Kansas City, Missouri 64198:

1. *Nation Wide BankShares, Inc.*, West Point, Nebraska; to acquire Charter West Agency, Inc., West Point, Nebraska, and thereby engage in general insurance agency activities in a town with a population of less than 5,000 pursuant to § 225.25(b)(8)(iii)(A) of the Board's Regulation Y. This activity will be conducted in the town of West Point, Nebraska, and the immediate vicinity.

Board of Governors of the Federal Reserve System, September 11, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-21403 Filed 9-16-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87F-0269]

Filing of Food Additive Petition; Ciba-Geigy Corp.

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 5-[(2,3-dihydro-6-methyl-2-oxo-1*H*-benzimidazol-5-yl)azo]-2,4,6(1*H*, 3*H*, 5*H*)-pyrimidinetrione as a colorant in all polymers.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7B4016) has been filed by Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532, proposing that § 178.3297 *Colorants for polymers* (21 CFR 178.3297) be amended to provide for the safe use of 5-[(2,3-dihydro-6-methyl-2-oxo-1*H*-benzimidazol-5-yl)azo]-2,4,6(1*H*, 3*H*, 5*H*)-pyrimidinetrione as a colorant in all polymers.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: September 3, 1987.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-21426 Filed 9-16-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86P-0369]

Canned Pacific Salmon Deviating From Identity Standard; Amendment of Temporary Marketing Permit

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit, issued to Bumble Bee Seafoods, Inc., to market test canned skinless and boneless chunk salmon is being amended to add another test product manufacturer.

FOR FURTHER INFORMATION CONTACT: Karen L. Carson, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0110.

SUPPLEMENTARY INFORMATION: A temporary permit was issued under the provisions of 21 CFR 130.17 to Bumble Bee Seafoods, Inc., San Diego, CA 92123, to market test canned skinless and boneless chunk salmon to test consumer acceptance of the new style pack. The permit was issued in order to facilitate market testing of foods that deviate from the requirements of the standard of identity for canned Pacific salmon (21 CFR 161.170), which was promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). Notice of issuance of the temporary permit to Bumble Bee Seafoods, Inc., was published in the **Federal Register** of September 16, 1986 (51 FR 32844), and amended in the **Federal Register** of May 29, 1987 (52 FR 20147). The expiration date of the permit is December 29, 1987.

In accordance with § 130.17(f) Bumble Bee Seafoods, Inc., has requested that British Columbia Packers, Ltd., 4300 Moncton St., Richmond, British Columbia, Canada be added to the permit as a test product manufacturer. Accordingly, FDA is amending the temporary permit to reflect this change.

Therefore, FDA is amending the permit to add British Columbia Packers, Ltd., Richmond, British Columbia, Canada as a test product manufacturer. All other conditions and terms of this permit remain the same.

Dated: September 8, 1987.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-21422 Filed 9-16-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 87D-0279]

Revised Forms for Investigational New Drug Applications; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of revised forms for investigational new drug applications. Two new forms are being made available: (1) A revised investigational new drug application (IND) (Form FDA-1571); and (2) a revised statement of investigator (Form FDA-1572). The revised statement of investigator form replaces previously used forms FDA-1572 and FDA-1573. The forms have been prepared by FDA's Center for Drugs and Biologics.

ADDRESS: Requests for forms may be made in writing to the Forms and Publications Distribution Center (HFA-268), 12100 Parklawn Dr., Rockville, MD 20852. Requests for forms should include the FDA form number, the form title, the quantity required, the name of the firm, and the address to which the shipment is to be sent.

FOR FURTHER INFORMATION CONTACT: Darlene Burgess, Center for Drugs and Biologics (HFN-46), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4320.

SUPPLEMENTARY INFORMATION: The two revised forms are designed to be used with the newly revised investigational new drug regulations (the "IND Rewrite") published in the **Federal Register** of March 19, 1987 (52 FR 8798). These forms have been approved by the Office of Management and Budget (OMB) under The Paperwork Reduction Act of 1980 and assigned OMB control number 0910-0014. Because a limited number of the forms are available, sponsors are requested to limit their requests to 200 copies of each form.

Dated: September 10, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-21423 Filed 9-16-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 87M-0271]

Premarket Approval of Aerosol Services, Inc., Sterile Unpreserved Aerosol Pressurized Spray

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Aersosol Services, Inc., City of Industry, CA, for premarket approval, under the Medical Device Amendments of 1976, of AEROSOL SERVICES, INC., STERILE UNPRESERVED AEROSOL PRESSURIZED SPRAY. After reviewing the recommendaton of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant on July 31, 1987, by letter of the approval of the application.

DATE: Petitions for administrative review by October 19, 1987.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

SUPPLEMENTARY INFORMATION: On July 6, 1987, Aerosol Services, Inc. (Aerosol), City of Industry, CA 91746, submitted to CDRH an application for premarket approval of AEROSOL SERVICES, INC., STERILE UNPRESERVED AEROSOL PRESSURIZED SPRAY. The device is indicated for use in the rinsing, heat disinfection and storage of soft (hydrophilic) contact lenses. The application includes authorization from Steridyne Laboratories, Inc. (Steridyne), Hollywood, CA, to incorporate the information contained in its approved premarket approval applicaton for the STERIDYNE DYNASPRAY STERILE SALINE SOLUTION (Docket No. 87M-0159), a product that is identical to the Aerosol device.

On February 27, 1987, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the Steridyne application. On July 31, 1987 CDRH approved Aerosol's application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ-460), address above.

The labeling of AEROSOL SERVICES, INC., STERILE UNPRESERVED AEROSOL PRESSURIZED SPRAY states that the solution is indicated for use in the rinsing, heat disinfection and storage of soft (Hydrophilic) contact lenses. Manufacturers of soft (hydrophilic) contact lenses that have been approved for marketing are advised that whenever CDRH publishes a notice in the **Federal Register** of the approval of a new solution for use with an approved soft contact lens, the manufacturer of each lens shall correct its labeling to refer to the new solution at the next printing or at such other time as CFRH prescribes by letter to the applicant.

Opportunity for Administative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the person who may particiapte in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before October 19, 1987, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554-555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: September 3, 1987.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 87-21421 Filed 9-16-87; 8:45 am]

BILLING CODE 4169-01-M

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings: The following advisory committee meetings are announced:

Cardiovascular and Renal Drugs Advisory Committee

Date, time, and place. October 13, 1987, 8:30 a.m., Auditorium, Lister Hill Center, Bldg. 38A, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD.

Type of meeting and contract person. Open public hearing, 8:30 a.m. to 9:30 a.m, unless public participation does not last that long; open committee discussion, 9:30 a.m. to 5:30 p.m.; Joan C. Standaert, Center for Drugs and Biologics (HFN-110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4730 or 419-259-6211.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of cardiovascular disorders and diseases.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in

writing, on issues pending before the committee should communicate with the committee contract person.

Open committee discussion. The committee will discuss (NDA 18-998) Merck and Co., Vasotech (enalapril) for treatment of congestive heart failure; (NDA 19-558) Merck and Co., Prinivil (lisinopril) for treatment of congestive heart failure; and (NDA 18-343) Squibb and Co., Capoten (captopril) for congestive heart failure.

Pulmonary-Allergy Drugs Advisory Committee

Date, time, and place. October 22, and 23, 1987, 8:30 a.m., Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.

Type of meeting and contact person. Open public hearing, October 22, 8:30 a.m. to 9:30 a.m, unless public participation does not last that long; open committee discussion, 9:30 a.m. to 5:00 p.m.; open committee discussion, October 23, 8:30 a.m. to 2:30 p.m.; Isaac F. Roubein, Center for Drugs and Biologics (HFN-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4695.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of pulmonary disease and diseases with allergenic and/or immunologic mechanisms.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the committee contract person.

Open committee discussion. On October 22, the committee will discuss the following: (1) Surfactant replacement therapy, (2) effect of theophylline on school performance, (3) rationality of antitussive-expectorant combinations, and (4) adverse rections of beta-agonists. On October 23, the committee will discuss NDA 19-658 (loratidine, Schering-Plough Corp.).

Anti-Infective Drugs Advisory Committee

Date, time, and place. October 26 and 27, 1987, 8:30 a.m., Conference Rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contract person. Open public hearing, October 26, 8:30 a.m. to 9:30 a.m, unless public participation does not last that long; open committee discussion, 9:30 a.m. to 4:30 p.m.; October 27, 8:30 a.m. to 12:30 p.m.; Thomas E. Nightingale, Center for Drugs and Biologics (HFN-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4695.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in infectious disease.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the committee contact person.

Open committee discussion. The committee will discuss the safety and efficacy of ganciclovir, also as DHPG, and the drug ramantadine.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meeting announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcrips of the open portion of the meeting will be available from the Freedom of Information Office (HFI-35), Food and Drug Administration, Rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: September 9, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-21425 Filed 9-16-87; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

[BERC-406-CN]

Medicare Program; Payments Under Medicare and Awards Under the Federal Tort Claims Act; Correction

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

ACTION: Notice of HCFAR Ruling; Correction.

SUMMARY: In the July 10, 1987 issue of the **Federal Register** (FR Doc. 87-15581), beginning on page 26088, we set forth a

new HCFA Ruling concerning payment under Medicare when there is an award under the Federal Tort Claims Act. This notice corrects the Ruling number and several typographical errors, including a phrase omitted from the holding under the Ruling.

FOR FURTHER INFORMATION CONTACT: Julie Brown, (301) 594–9638.

SUPPLEMENTARY INFORMATION: We are making the following corrections to the July 10, 1987 document:

On page 26088, column 3, paragraph 1, line 14, and on page 26090, column 1, title to the Appendix, "HCFAR 87–5" should be "HCFAR 87–4".

On page 26089, column 1, paragraph 3, line 1: "HCFAR's" should be "HCFA's."

On page 26089, column 2, paragraph 1, line 12 of the quote "or" should be "on"; in lines 29 and 30 of the same quote, "to any right of an individual or any other entity to payment * * *" should be deleted, as it repeats what comes just before it.

On page 26089, column 3, incomplete paragraph at top, line 5: the word "the" should be "that."

On page 26089, column 3, paragraph 1: the word "situation" in line 9 should be "situations", and the word "as" in line 17 should be "a."

On page 26089, column 3, last paragraph, the sentence beginning on line 14 should read as follows: "It is further held that if Medicare has already made a payment for services for which liability exists under the FTCA, Medicare may recover its payments directly from the Federal entity responsible for such payments or from anyone who has been paid by the responsible entity with respect to such services."

On page 26090, column 2, paragraph 2, line 2: the word "third-part" should be "third-party."

On page 26090, column 2, line 3 of the quote: the word "paytment" should be "payment."

(Sections 1862(a)(3) and 1862(b)(1) of the Social Security Act (42 U.S.C. 1395y(a)(3) and 1395y(b)(1)); 42 CFR Parts 401 and 405)

(Catalog of Federal Domestic Assistance Program No. 13773, Medicare—Hospital Insurance Program)

Dated: September 11, 1987.

James F. Trickett,

Deputy Assistant Secretary for Administrative and Management Services.

[FR Doc. 87–21458 Filed 9–16–87; 8:45 am]

BILLING CODE 4120–03–M

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; National Arthritis Advisory Board; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Arthritis Advisory Board on October 19, 1987. The Board will meet from 8:30 a.m. to approximately 3:00 p.m. at the Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, Virginia 22032. The meeting, which will be open to the public, is being held to discuss the Board's activities and to continue evaluation of the implementation of the long-range plan to combat arthritis. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

Mr. John R. Abbott, Executive Secretary, National Arthritis Advisory Board, 1801 Rockville Pike, Suite 500, Rockville, Maryland 20852, (301) 496–8274, will provide on request an agenda and roster of the members. Summaries of the meeting may also be obtained by contacting his office.

Dated: September 11, 1987.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 87–21405 Filed 9–16–87; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–87–1734]

Submission of Proposed Information Collections to the Office of Management and Budget

AGENCY: Office of Administration, HUD.

ACTION: notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission; (8) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Proposal: Recertification of Family Income and Composition

Office: Housing

Description of the need for the information and its proposed use: Section 235 of the National Housing Act authorizes lenders to send these forms to homeowners to determine and adjust the amount of subsidy a mortgagor is eligible to receive. The forms are submitted to HUD for statistical analysis of increase and decrease in subsidy and general program information

Form number: HUD–93101, 93101A, and 93101B

Respondents: Individuals or households and businesses or other for-profit

Frequency of response: On occasion, monthly, and annually

Estimated burden hours: 429,924

Status: Reinstatement

Contact: Ann Marie Sudduth, HUD, (202) 755–6672, John Allison, OMB (202) 395–6880
Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Proposal: Requests for Exceptions to Income Limits for the Section 8 Housing Assistance Program, 24 CFR 813.105 (b) and (c)
Office: Housing
Description of the need for the information and its proposed use: Project owners, Public Housing Authorities and Indian Housing Authorities may submit requests for exceptions in order to admit lower income families who are not very low income to units covered by the income limits in Section 323 of the Omnibus Budget Reconciliation Act of 1981. HUD will authorize exceptions on the basis of these requests
Form number: None
Respondents: State or local governments, non-profit institutions, and businesses or other for-profit
Frequency of response: On occasion
Estimated burden hours: 606
Status: Reinstatement
Contact: Myra E. Newbill, HUD, (202) 755–6887; John Allison, OMB, (202) 395–6880
Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Proposal: Lease Requirements, 24 CFR 966.4
Office: Public and Indian Housing
Description of the need for the information and its proposed use: Under Section 203(B) of Article II of Part Two of the Annual Contributions Contract, each public housing agency should have a lease agreement with each tenant. This lease should have provisions to carry out statutory requirements such as rent redeterminations and terminations of tenancy. The lease will be reviewed by HUD during the regular occupancy audit
Form number: None
Respondents: Individuals or households
Frequency of response: On occasion
Estimated burden hours: 201,454
Status: Reinstatement
Contact: Edward C. Whipple, HUD, (202) 426–0744; John Allison, OMB, (202) 395–6880
Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act 42 U.S.C. 3535(d).

Proposal: Contract and Subcontract Activity Reporting
Office: Community Planning and Development
Description of the need for the information and its proposed use: Executive Orders 11625 and 12432 state that this report will be prepared by the grantees for the purpose of providing data on expended dollars and to provide verifiable minority business enterprise (MBE) data. The information will enable HUD to monitor and evaluate MBE activities against the total program activity and the designated MBE goals
Form number: HUD–2516
Respondents: State or local governments
Frequency of response: Semi-annually
Estimated burden hours: 2,800
Status: Reinstatement
Contact: Leroy P. Gonnella, (202) 755–6092; John Allison, OMB, (202 395–6880
Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Proposal: Urban Development Action Grant Program
Office: Community Planning and Development
Description of the need for the information and its proposed use: The information is used to evaluate applicants' requests for funding under the Urban Development Action Grant Program. Once funding decisions are made, the information serves as the basis for writing a grant agreement between HUD and approved cities and for monitoring progress in completing projects
Form number: SF–424, HUD–3440–3446
Respondents: State or local governments
Frequency of response: On occasion and semi-annually
Estimated burden hours: 71,155
Status: Reinstatement
Contact: Michael J. McMahon, HUD, (202) 755–8227; John Allison, OMB, (202) 395–6880
Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Proposal: Mortgagee Questionnaire
Office: Housing
Description of the need for the information and its proposed use: The information collected by this form provides an overview of the mortgagee's operations for servicing HUD-insured single family mortgages. HUD uses this information to forecast possible weaknesses in a servicing operation prior to an on-site review of the mortgagee's office procedures
Form number: HUD–9800
Respondents: Businesses or other for-profit
Frequency of response: Biennially
Estimated burden hours: 3,250
Status: Extension
Contact: Leslie Bromer, HUD (202 755–7330; John Allison, OMB (202) 395–6880
Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Proposal: Transmittal for Payment of One-Time Mortgage Insurance Premiums (OTMIP)
Office: Administration
Description of the need for the information and its proposed use: The form is prepared by HUD-approved mortgagees to provide remitter and mortgage data to HUD with payments of one-time mortgage insurance premiums. The data are used to record the collections, acknowledge receipts, and confirm sufficiency and/or accuracy of the funds and data received
Form number: HUD–27001
Respondents: Businesses or other for-profit
Frequency of response: On occasion
Estimated burden hours: 55,000
Status: Revision
Contact: Robert E. Wiggins, HUD (202 755–8238; John Allison, OMB (202) 395–6880
Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 8, 1987.

John T. Murphy,

Director, Information Policy and Management Division.

[FR Doc. 87–21529 Filed 9–16–87; 8:45 am]
BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[A–850–07–4830–17–2411]

Oil Shale Leasing Prototype Program; Recision of Department Directive

In accordance with 5 U.S.C. 552(a)(1)(E), notice is hereby given that on August 3, 1987, a Department of the Interior directive relating to the prototype oil shale leasing program (Chapter 3, Part 615 of the Manual of the

Department of the Interior) that was published in the **Federal Register** of March 6, 1974 (45 FR 8642), was rescinded by Manual Release Number 2755.

Additional information concerning this action can be obtained from Michael J. Hengel, Bureau of Land Management on (202) 343–6152.

James E. Cason,

Acting Assistant Secretary of the Interior.

September 9, 1987.

[FR Doc. 87–21392 Filed 9–16–87; 8:45 am]

BILLING CODE 4310–84–M

Bureau of Land Management

[WY–040–07–4322–02]

Draft Environmental Impact Statement; Public Hearing and Extension of Comment Period; Teton County; WY

AGENCY: Bureau of Land Management (BLM) and U.S. Forest Service (FS), Interior.

ACTION: Notice of a second Public Hearing and extension of comment period for the Sohare Creek Unit Exploratory Oil Well Draft Environmental Impact Statement (DEIS), Teton County, Wyoming.

SUMMARY: Notice is hereby given that a second public hearing on the Sohare Creek Unit Exploratory Oil Well (DEIS), in Teton County, Wyoming has been scheduled. In addition, the comment period on the DEIS is extended 15 days.

DATES: The second public hearing on the DEIS will be held at 7 p.m. on October 1, 1987. The comment period on the DEIS will end October 27, 1987.

ADDRESSES: The second public hearing will be held at the Hitching Post Inn in Cheyenne, Wyoming.

FOR FURTHER INFORMATION CONTACT: Questions or comments on the DEIS should be directed to Mr. Alfred Reuter, Project Leader, Bridger-Teton National Forest, P.O. Box 1888, Jackson, Wyoming 83001–1888, (307) 733–4755.

SUPPLEMENTARY INFORMATION: Initial public notice of the availability of the DEIS was published in the **Federal Register**, Vol. 52, No. 155, Wednesday, August 12, 1987 (52 FR 29894). A public hearing was held September 2, 1987, in Jackson, Wyoming. Because of several public requests, the comment period has been extended and the second public hearing scheduled. The BLM and FS intend to make full use of the public review process, so that all pertinent concerns can be taken into account in the preparation of the final EIS.

Donald H. Sweep,

District Manager.

September 10, 1987.

[FR Doc. 87–21470 Filed 9–16–87; 8:45 am]

BILLING CODE 4310–22–M

[ID–020–07–4212–13]

Management Framework Plan; Malad, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Amend the Malad Management Framework Plan to allow the exchange of public and private lands.

SUMMARY: Notice is hereby given in accordance with 43 U.S.C. 1711–1712 and 43 CFR 1610.2 (c) that the Burley District is proposing to amend the Malad Management Framework Plan to allow the exchange of the following described public and private lands:

Offered Lands (Private Land) 360 acres

T. 15S., R. 29E., Boise Meridian,
Section 24: SW¼, W½SE¼, SE¼SE¼;
Section 25: NE¼NE¼, NW¼NW¼.

Selected Lands (Public Land) 360 acres

T. 14S., R. 30E., Boise Meridian,
Section 28: E½, SE¼NW¼.

The general location of the selected land is two miles northeast of the Juniper Exit on I–84. The location of the offered land is four miles southwest of the Juniper Exit on I–84.

A land use plan amendment document and a land report will be prepared for the subject lands. The land report and the amendment will be reviewed by BLM interdisciplinary resource specialists. Public participation will involve the publication of this notice in the Federal Register and local newspapers. The adjoining landowners, grazing permittees, county commissioners, the Burley District Grazing Advisory Board and Advisory Council, and the Idaho Fish and Game Department will be asked for comments. As public controversy is expected to be low for the proposed exchange, no public meetings, hearings, or conferences are planned.

The main issue that is anticipated for the exchange proposal is whether it is in the public interest to exchange 360 acres of public land having potential for dry farming for 360 acres of private land having value for livestock grazing and wildlife habitat.

The existing Malad Management Framework Plan and maps are available for review at the Deep Creek Resource Area Office, 138 South Main Street, Malad, Idaho 83252.

The public may obtain additional information about this exchange proposal by contacting the Bureau of Land Management, ATTN: John R. Christensen, 138 South Main Street, Malad, Idaho 83252, telephone (208) 766–4766.

Dated: September 10, 1987.

W.A. Bright,

Acting District Manager.

[FR Doc. 87–21471 Filed 9–16–87; 8:45 am]

BILLING CODE 4310–GG–M

[NM–060–08–4410–12]

Management Framework Plan; Fort Stanton, NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Prepare and amendment to the Fort Stanton Management Framework Plan.

SUMMARY: The U.S. Department of Interior, Bureau of Land Management, Roswell District, New Mexcio, will prepare a Management Framework Plan Amendment (MFPA), Including and Environmental Assessment (EA), to the Fort Stanton Management Framework Plan (MFP). This amendment will cover the recreation program on Fort Stanton and will allow for the development of a recreation sits approximately 40 acres in size. The proposed site will be located adjacent to New Mexico State Highways 214 and 380. When fully developed, this site will provide visitors with the opportunity of picnicking, overnight camping, and hiking along interpretative trails.

Location: The Fort Stanton Reservation covers 24,715 acres of Federal lands which are administered by the Roswell District Office of the Bureau of Land Management. Since 1963, the area has been used by the Agricultural Research Station of New Mexico State University (NMSU) for long-term range and wildlife research. The reservation is located in the foothills between Sierra Blanca and the Capitan Mountains in southern Lincoln County, New Mexico.

Issues: Recreation site development in the Salado Creek Drainage will be the only issue addressed.

Criteria: This amendment will be developed using the criteria set forth in the planning regulations 43 CFR Part 1600.

Public participation: The public, along with potentially affected communities

and governmental agencies will be contacted by letter to solicit comments.

Dates and locations of public meetings: Depending on the degree and nature of interest generated by this notice and the letter sent to the affected public and governmental entities, meetings may be scheduled. The time and location of any scheduled meetings will be announced through the local media, a minimum of 15 calendar days is advance.

For further information contact: Phil Kirk, Area Manager, Roswell Resource Area, P.O. Drawer 1857, Roswell, New Mexico, 88201, (505) 624–1790. Information and documents pertinent to this process will be available for public review weekdays from 7:45 a.m. to 4:30 p.m. at the BLM Office, Federal Building, 5th and Richardson, Roswell, New Mexico, 88201.

Dated: September 10, 1987.

Monte G. Jordan,

Associate State Director.

[FR Doc. 87–21472 Filed 9–16–87; 8:45 am]

BILLING CODE 4310–FB–M

[Ut–080–07–4333–13]

Motor Vehicles; Off-Road Vehicles Designations

AGENCY: Bureau of Land Management; Interior.

ACTION: Notice of off-road vehicle designation decisions.

Decision: Notice is hereby given relating to the use of off-road vehicles (ORV) on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989, and the regulations in 43 CFR Part 8340. The following described lands under administration of the Bureau of Land Management are designated as open, limited, or closed to off-road motorized vehicle use.

The 1,735,419 acres affected by the designations are known as the Diamond Mountain and Book Cliff Resource Areas in the Vernal District. These designations are a result of land use planning recommendations made in district land use plans.

The designations with associated travel restrictions are discussed in a recently completed Environmental Assessment that is available upon request at the Vernal District Office. These designations are published as final today.

Open Designation: Designated areas on public lands where off-road vehicles may be operated, subject to the operating regulations and vehicle standards set forth in 43 CFR Part 8340, subpart 8341 and 8343. All public lands not otherwise identified as limited or closed will be designated as open in the Vernal District.

Limited Designations: Designated areas where the use of off-road vehicles is subject to restrictions deemed appropriate by the authorized officer. The following restrictions apply to public lands in the Vernal District.

1. *Limited to existing roads and trails.* Designated lands in this category prohibits cross-country vehicle travel. All vehicle use is restricted to existing roads and trails. The following public lands in the Vernal District fall in this catagory.

a. *Fantasy Canyon.* This area contains unique erosional figures and has future interpretive potential. The area is very fragile and could be easily damaged by uncontrolled use. This area is described as:

T. 9 S., R. 22 E.,
Portion of Section 12.
Total: 160 acres.

b. *Upper Hill Creek.* These three areas border on the Hill Creek Extension of the Uintah and Ouray Indian Reservation. This area of the reservation has been identified as an important cultural, religious, and wildlife area by the Ute Tribe.

This area is described as:

T. 11 S., R. 19 E., SLBM
Portions of Sections 28, 29, and 33.
T 13 S., R. 20 E., SLBM.
All of Section 17.
Portions of Sections 18, 19, 20, 21, 22, 27, 28, 29, and 34.
T. 14 S., R. 21 E., SLBM.
All of Section 10, 15, and 22.
Portions of Sections 3, 11, 14, 23, 26, 27, 34, and 35.
T. 15 S., R. 21 E., SLBM.
Portions of Sections 6, 7, 18, and 19.
Total: 9,240 Acres.

c. *Threatened Plant Areas.* It is proposed to limit ORV use on two separate areas where the federally listed threatened plant *Sclerocactus Glaucus* grows.

1. *Wrinkles Area.* This area is located on a bench on the north side of Nine Mile Canyon 25 miles south of Myton.

This area is described as: T. 11 S., R. 14 E., SLBM.
Portions of Sections 13, 14, 15, 22, 23, 24, and 25.
T. 11 S., R. 15 E., SLBM.
Portions of Sections 17, 18, 19, 20, 23, 24, 25, 26, 29, and 30.
T. 11 S., R. 16 E., SLBM.
Portions of Sections 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, 33, and 34.
T. 11 S., R. 17 E., SLBM.
Portions of Sections 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30.
Total: 11,700 Acres.

2. *Wild Horse Bench.* This area is located next to the Green River in Hill Creek.

This area is described as:

T. 9 S., R. 19 E., SLBM.
Portions of Sections 13, 23, 26, 27, 28, and 33.
T. 10 S., R. 18 E., SLBM.
Portions of Sections 25, 26, and 35.
T. 10 S., R. 19 E., SLBM.
All of Sections 20, 29, and 31.
Portions of Sections 4, 5, 7, 8, 9, 18, 19, and 30.
T. 11 S., R. 18 E., SLBM.
All of Sections 24 and 25.
Portions of Sections 1, 2, 12, 13, 14, 15, 20, 21, 22, 23, 26, and 35.
T. 11 S., R. 19 E., SLBM.
All of Sections 30 and 31.
Portions of Sections 6 and 17.
Total 15,790 Acres.

Closed Designations: Designated areas and trails on public lands where use of off road vehicles is prohibited.

1. *White River Canyon.* This area forms a corridor along the White River between a proposed dam site and the boundary of the Uintah and Ouray Indian Reservation. Each year a greater number of people float this segment of the White River. It is felt that closing the River Corridor to ORV use would help maintain the solitude that is an important part of a float trip down this river.

This area is described as:

T. 9 S., R. 22 E., SLBM.
All of Section 28.
Portions of Sections 26, 27, 34, and 35.
T. 10 S., R. 22 E., SLBM.
Portions of Sections 14 and 23.
T. 10 S., R. 23 E., SLBM.
Portions of Sections 13, 14, 18, 19, 20, 21, 22, 23, 26, 27, and 28.
Total: 5,120 Acres.

2. *Boulevard Ridge Watershed Study.* This area is being studied to determine effects of land treatment on runoff and sediment production. The area would be closed to ORV use.

The area is described as:

T. 13 S., R. 25 E., SLBM.
Portions of Section 17.
Total: 400 Acres.

Book Cliff Natural Area. This area is a mountain browse site that is considered to be in a natural condition. It is important that this area be maintained in a natural condition.

The area is described as:

T. 15 S., R. 25 E., SLBM.
Portions of Sections 17 and 20.
Total: 320 Acres.

These designations become effective upon publication in the **Federal Register** and will remain in effect until rescinded or modified by the authorized officer.

Existing designations limiting ORV use to existing roads and trails in the Pariette Wetlands, Red Creek Watershed, and Green River Corridor in Brown's Park remain in effect as published in the **Federal Register** January 27, 1983.

ADDRESS: For further information and map about these designations, contact the following Bureau of Land Management Office: District Manager, Vernal District Office, 170 South 500 East, Vernal, Utah 84078.

Dated: September 11, 1987.

David E. Little,

Vernal District Manager.

[FR Doc. 87-21517 Filed 9-16-87; 8:45 am]

BILLING CODE 4310-DQ-M

[AZ-020-07-4212-13; A-22982]

Realty Action; Exchange of Federal Minerals, Pima County, AZ

SUMMARY: The following described Federal mineral estate may be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716.

Gila and Salt River Meridian, Arizona

T. 10 S., R. 14 E.,
Section 12, SW¼;
Section 13, NE¼NW¼, E½E½NW¼ NW¼.
T. 10 S., R. 15 E.,
Section 8, lot 3, S½NE¼, NW¼, S½;
Section 17, N½N½.

Comprising 966 acres, more or less.

In exchange for this federal mineral estate, the United States will select an equal number of acres of State-owned minerals located under federal surface.

The purpose of the exchange is to unite State and Federal split estates, thereby eliminating surface management difficulties and providing for the consolidation of surface/mineral ownership.

The purpose of this Notice of Realty Action is two-fold. First, this action will provide a response period of forty-five (45) days during which public comments will be accepted. Secondly, this action, as provided in 43 CFR 2201.1(b), shall segregate the federal minerals, as described in this Notice, to the extent that they will not be subject to appropriation under the mining laws, subject to any prior valid rights. The segregative effect shall terminate either upon publication in the **Federal Register** of a termination of the segregation or two years from the date of this publication, whichever comes first. This action is necessary to avoid the occurrence of nuisance mining claims that could encumber the federal minerals while the preparation of an environmental assessment and mineral report are ongoing.

Upon completion of the environmental assessment, a final Notice of Realty Action will be published. The Notice will provide a final description of the Federal and State minerals to be transferred, including reservations.

SUPPLEMENTARY INFORMATION: Detailed information concerning the exchange, may be obtained from the Area Manager, Phoenix Resource Area, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

For a period of forty-five (45) days, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Dated: September 9, 1987.

Henri R. Bisson,

District Manager.

[FR Doc. 87-21437 Filed 9-16-87; 8:45 am]

BILLING CODE 4310-32-M

[AZ-040-07-4212-12; A 22435, A 22436]

Realty Action; Exchange of Public Land in Graham, Greenlee, Cochise and Pinal Counties, AZ and Cancellation of Segregation; Amended

AGENCY: Bureau of Land Management, Interior.

ACTION: Exchange of Public Land in Graham, Greenlee, Cochise and Pinal Counties, AZ, and Cancellation of Segregation; Amended.

SUMMARY: **Federal Register,** Volume 52, No. 137, apearing on pages 27063 through 27065 in the issue of Friday, July 17, 1987, is amended by changing the last paragraph of column 3, page 27064 to read as follows:

This will serve as notice that the segregative effect placed upon the following described public lands in the Notice found at 52 FR 1670, January 15, 1987, will be terminated. The following described lands will be segregated from entry under the mining laws, except the mineral leasing laws under case number A 22436. The segregative effect will terminate upon issuance of patent to the State of Arizona or upon expiration of 90 days from the effective date, or by publication of a Notice of Termination by the Authorized Officer, whichever comes first.

Also, the listing of lands which followed should have included the following:

T. 7 S., R. 24 E.,
Sec. 13, SE¼SE¼;
Sec. 14, SW¼NE¼;
Sec. 24, lots 1, 2, 3, NE¼NE¼, S½NE¼, NE¼SW¼, N½SE¼.

The acreage to be segregated totals 15,487.39 acres.

Dated: September 10, 1987.

Ray A. Brady,

District Manager.

[FR Doc. 87-21438 Filed 9-16-87; 8:45 am]

BILLING CODE 4310-32-M

[AZ-020-07-4212-12; A 20346-S]

Realty Action; Exchange of Public Lands in Pima and Pinal Counties, AZ

BLM proposes to exchange public land in order to achieve more efficient management of the public land through consolidation of ownership.

The following described public lands are being considered for disposal by exchange pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716.

Gila and Salt River Meridian, Arizona

T. 9 S., R. 6 E.,
Sec. 5, lots 1-5, S½
T. 10 S., R. 6 E.,
Sec. 30, lots 1-4, E½, E½W½;
Sec. 31, lots 1, 2, E½, NW¼, NE¼.
T. 11 S., R 6 E.,
Sec. 3, lots 1, 2, S½NE¼, S½;
Sec. 5, lots 1-4, S½N½, S½;
Sec. 6, lots 6, 7, E½SW¼, SE¼;
Sec. 7, NE¼;
Sec. 10 all.
T. 11 S., R. 8 E.,
Sec. 1, lots 1-8;
Sec. 3, lots 1-8.
T. 11 S., R. 9 E.,
Sec. 6, lots 2-5, SE¼SW¼, SW¼SE¼;
Secs. 10 through 26, all,
Sec. 35, 36, unleased portions.
T. 12 S., R. 9 E.,
Sec. 1, lot 4.
T. 14 S., R. 9 E.,
Sec. 33, N½N½, N½S½, SE¼SW¼, SE¼;
Sec. 34, 35, all.
T. 15 S., R. 9 E.,
Sec. 1, lots 1-3, W½NE¼, NW¼, N½SW¼, NW¼SE¼;
Sec. 3, NE¼NE¼, S½;
Sec. 4, S½;
Secs. 9 through 11, all;
Sec. 30, lots 1-4, E½E½W½.
T. 11 S., R. 10 E.,
Sec. 19, lots 1-4, E½, E½W½:
Sec. 20 W½;
Sec. 29, W½;
Sec. 30, lots 1-4, E½, E½W½.
T. 12 S., R. 10 E.,
Sec. 6, lots 1-7, S½NE¼, SE¼NW½, E½SW¼, SE¼;
Sec. 7, lots 1-4, E½, E½W½:
Sec. 18, lots 1-4, E½, E½W½;
Sec. 23, NW¼NW¼/.
T. 13 S., R. 10 E.,
Sec. 6, lot. 4.
T. 14 S., R. 10 E.,
Sec. 31, lots 1-11, NE¼, E½NW¼, NE¼SW¼, N½SE¼;

Sec. 33, lots 1–8, N½, N½S½.
T. 15 S., R 10 E.,
Sec. 3, lots 3, 4, S½NW¼;
Sec. 4, lots 1–4, S½N½;
Sec. 5, lots 1–4, S½N½, N½S½;
Sec. 6, lots 1–5, S½NE¼, SE¼NW¼.
T. 14 S., R. 11 E.,
Sec. 4, SE¼SE¼.

Containing approximately 25,196.12 acres.

Final determination on disposal will await completion of an environmental analysis.

In accordance with the regulations of 43 CFR 2201.1 (b), publication of this Notice will segregate the public lands as described in this Notice, from appropriation under the public land laws and the mining laws, but not the mineral leasing laws or Geothermal Steam Act.

The segregation of the above-described lands shall terminate upon issuance of a document conveying such lands or upon publication in the **Federal Register** of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

For a period of forty-five (45) days, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Dated: September 11, 1987.

Henri R. Bisson,

District Manager.

[FR Doc. 87–21473 Filed 9–16–87; 8:45 am]

BILLING CODE 4310–32–M

[CA–010–07–4212–13; CA 20645]

Realty Action; Exchange of Public and Private Lands in Placer, Stanislaus, Santa Clara and Tehama Counties, CA

AGENCY: Bureau of Land Management (BLM), Interior.

SUMMARY: The following described public land has been determined to be suitable for disposal by exchange under the authority of section 206 of the Federal Land Policy and Management Act (FLPMA) of October 21, 1976 (43 U.S.C. 1716).

Selected Public Land

Mount Diablo Meridian, California, Stanislaus and Santa Clara

T. 6 S., R. 5 E., Stanislaus and Santa Clara Counties
Sec. 7: E½SE¼, lots 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 18
Sec. 9: SW¼NE¼, SE¼NW¼, NE¼SW¼, lots 1, 2, 3, 4, 5, 6, 7, 8 and 9

In addition to the authority cited above, the following described public lands (Inks Creek Ranch inholdings) are being exchanged under the authority of sec. 3 of the Act of October 27, 1986, (Pub. L. 99–542).

Mount Diablo Meridian, California

T. 29 N., R. 2 W., Tehama County,
Sec. 20: N½NW¼, SE¼NE¼, SE¼SW¼, SE¼;
Sec. 30: SE¼NE¼, E½SW¼, SE¼, lots 3 and 4;
Sec. 32: All.

Aggregating 2306.28 acres, more or less.

In exchange for the above parcels, the United States will acquire the following described private land from the Trust for Public Land, 116 New Montgomery Street, San Francisco, California 94105–3607.

Offered Private Land

Mount Diablo Meridian, California

T. 15 N., R. 10 E., Placer County,
Sec. 11: All;
Sec. 15: E½NE¼, N½SE¼, lots 2, 3, 6, 7, 8, 9, 10, 11, 12 and 13;
Secs. 15 and 16: Lot 88 (M.S. 1215).

Aggregating 1127.94 acres, more or less.

The purpose of this exchange is to acquire non-federal lands located within the North Fork of the American River Canyon. Because of its unspoiled nature and the spectacular scenery within the canyon, the river was designated a Wild and Scenic River by Congress in 1978. The acquisition, which includes over a mile of river, will afford added protection for this valuable resource. In contrast, the Federal land to be exchanged has little value to the public; the majority is land-locked and completely inaccessible to the public. The action has been discussed with local officials and is consistent with the Bureau's land use plans and regulations. In view of the above, this exchange is considered to be in the public interest.

The values of the properties to be exchanged (which include both the surface and mineral estates) are approximately equal; full equalization of values will be achieved by payment to the United States by the Trust for Public Land in an amount not to exceed 25 percent of the total value of the lands to be transferred out of Federal ownership.

The Federal lands to be transferred will be subject to the following reservations, terms and conditions:

1. A reservation to the United States for a right-of way for ditches and canals constructed under the authority of the Act of August 30, 1890 (43 U.S.C. 954).

2. Subject to an existing electric transmission pipeline right-of way granted by the United States to Pacific Gas and Electric Co., its successors and assigns, by R/W grant S068456 under the authority of the Act of March 4, 1911.

3. Subject to an existing electric transmission line right-of way granted by the United States to Pacific Gas and Electric Co., its successors and assigns, by R/W grant S068100 under the authority of the Act of Feb. 25, 1920.

4. A reservation for a road authority under the authority of the Act of October 21, 1976, to the United States by R/W grant CA 16972. This reservation is appurtenant to nonexclusive road easement RE–RED–278 crossing adjacent private lands.

5. Reserving to the United States, its permittees or licensees the right to enter upon, occupy and use, any part or all of the NW¼ NW¼ of Sec. 20 and the NW¼ NW¼ of Sec. 32, T. 29 N., R. 2 W., MDM, lying within 50 feet of the center line of the transmission line right-of-way of the Pacific Gas and Electric Co., Project No. 1121, for the purposes set forth in and subject to the conditions and limitations of section 24 of the Federal Power Act of June 10, 1920, as amended (16 U.S.C. 818).

6. A reservation for oil and gas to the United States for the public lands located within T. 29 N., R. 2 W., MDM, Tehama County.

7. Pursuant to authority contained in sec. 4 of Executive Order 11990 of May 24, 1977, of sec. 206 of said Act of October 21, 1976 (FLPMA), of sec. 3 of said Act of October 27, 1986, the patent when issued will be subject to a restriction which constitutes a covenant running with the land for the E½ SE¼ SW¼ SE¼ SE¼, SW¼ SE¼ SE¼ SE¼ of Sec. 32, T. 29 N., R. 2 W., MDM (3.75 acres, more or less), requiring protection and maintenance on a continuing basis of wetland habitat (vernal pool) and the associated plant, *Orcuttia tenuis* (slender orcutt grass). The described wetland area supporting *Orcuttia tenuis*, a State endangered plant species, shall be subject to the conditions of the California Native Plant Protection Act of 1977 (Sec. 1904 of the California Fish and Game Code (CFGC)), the California Endangered Species Act (Sec. 2072.7 of the CFGC), the California Environmental Quality Act (Division 13 of the California Public Resources Code) and to local ordinances pertaining to wetlands.

SUPPLEMENTARY INFORMATION: Publication of this notice in the **Federal Register** segregates the public lands from settlement, location and entry under the public land laws and the mining laws for a period of two years from the date of first publication.

FOR ADDITIONAL INFORMATION: Contact Mike Kelley, Folsom Resource Area Office, (916) 985–4474, at the address listed below. Also available for

review is the environmental assessment/land report.

DATE: For a period of 45 days from the first date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Area Manager, Folsom Resource Area.

ADDRESS: Comments should be sent to the Area Manager, Folsom Resource Area, 63 Natoma Street, Folsom, California 95630; (916) 985–4474. Any adverse comments will be forwarded to and evaluated by the District Manager, Bakersfield District and/or the District Manager, Ukiah District who may vacate or modify this realty action and issue a final determination. In the absence of any action by District Managers, this realty action will become a final determination of the Department of Interior.

Dated: September 11, 1987.

D.K. Swickard,

Area Manager.

[FR Doc. 87–21474 Filed 9–16–87; 8:45 am]

BILLING CODE 4310–40–M

[NM–030–07–4212–14]

Realty Action; Sale of Public Lands in Socorro County, NM.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The following described parcels of land have been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713) (FLPMA) at no less than the appraised fair market value shown. The parcels are isolated, difficult and uneconomical to manage as part of the public lands, and are not suitable for management by another Federal department or agency. The sale is consistent with the Bureau's planning efforts, and the public interest will be served by offering this land for sale.

Sale Method

Parcels 86–1 through 86–9 will be offered for sale using competitive bidding procedures (43 CFR 2711.3–1). On parcels 86–10 and 86–11, the bidding will be modified to allow bids from designated bidders only (43 CFR 2711.3–2). Parcels 86–12 through 86–47 will be offered as direct sales to the current occupants of the lands (43 CFR 2711.3–3).

Parcel No.	Serial No.	Legal description NMPM	Acreage	Appraised value	Method of sale
86–1	NM 57056	T. 1 S., R. 1 W.; Sec. 26, Lot 14	0.510	$510	Competitive.
86–2	NM 59333	T. 4 S., R. 1 E.; Sec. 32, Lot 31	1.54	$3,080	Competitive.
86–3	NM 59336	T. 4 S., R. 1 E.; Sec. 32, Lot 37	2.16	$3,240	Competitive.
86–4	NM 59334	T. 4 S., R. 1 E.; Sec. 32, Lot 29	10.49	$13,150	Competitive.
86–5	NM 59347	T. 4 S., R. 1 E.; Sec. 32, Lot 32	5.70	$8,550	Competitive.
86–6	NM 64763	T. 4 S., R. 1 E.; Sec. 6, Lot 80	1.19	$1,785	Competitive.
86–7	NM 63921	T. 4 S., R. 1 E.; Sec. 6, Lot 63	1.41	$1,410	Competitive.
86–8	NM 63922	T. 4 S., R. 1 E.; Sec. 6, Lot 61	1.37	$1,370	Competitive.
86–9	NM 64758	T. 4 S., R. 1 E.; Sec. 6, Lot 83	7.12	$10,680	Competitive.
86–10	NM 64765	T. 2 S., R. 1 E.; Sec. 31, Lot 7. AKA portion of Tr. 2, MRGCD Map 159	8.81	$4,400	Modified, competitive.
86–11	NM 64789	T. 4 S., R. 1 E.; Sec. 8, Lot 64. AKA portion of old road, MRGCD Map 158	0.23	$2.50	Modified, competitive.
86–12	NM 63910	T. 2 S., R. 1 E.; Sec. 18, portion of Lot 30. AKA portion of public road, MRGCD Map 156.	Approx. 1.25	$2.50/ac	Direct.
86–13	NM 66321	T. 2 S., R. 1 E.; Sec. 30, portion of Lot 24. AKA portion of public road, MRGCD Map 158.	Approx. 1.0	$2.50/ac	Direct.
86–14	NM 64782	T. 2 S., R. 1 E.; Sec. 30, portion of Lot 33. AKA portion of public road, MRGCD Map 158.	Approx. 0.50	$2.50/ac	Direct.
86–15	NM 64768	T. 2 S., R. 1 E.; Sec. 30, portion of Lots 29 and 33. AKA portion of public road, MRGCD Map 158.	Approx. 0.40	$2.50/ac	Direct.
86–16	NM 66320	T. 2 S., R. 1 E.; Sec. 30, portion of Lots 24 and 29. AKA portion of public road, MRGCD Map 158.	Approx. 3.5	$2.50/ac	Direct.
86–17	NM 66346	T. 2 S., R. 1 E.; Sec. 30, portion of Lot 33. AKA portion of public road, MRGCD Map 158.	Approx. 0.50	$2.50/ac	Direct.
86–18	NM 64769	T. 2 S., R. 1 E.; Sec. 30, portion of Lot 33. AKA portion of public road, MRGCD Map 158.	Approx. 1.0	$2.50/ac	Direct.
86–19	NM 64754	T. 3 S., R. 1 E.; Sec. 31, portion of Lot 41. AKA MRGCD Project Land, MRGCD Map 166.	Approx. 2.0	$2.50/ac	Direct.
86–20	NM 64753	T. 3 S., R. 1 E.; Sec. 31, Lots 44, 45, and 47 and portion of Lots 41 and 46. AKA portion of Tr. 9B, Tr. 15, portions of old road, Luis Lopez Ditch and linear parcel, MRGCD Map 166.	Approx. 17.0	$750/ac	Direct.
86–21	NM 63919	T. 2 S., R. 1 E.; Sec. 30, portion of Lots 33, 34, and 35. AKA N1/2 Tr. 20 and portion of public road, MRGCD Map 158.	Approx. 25.0	$100/ac. to $500/ac	Direct.
86–22	NM 66325	T. 4 S., R. 1 E.; Sec. 5, Lot 38. AKA portion of road, MRGCD Map 167	1.55	$5.00	Direct.
86–23	NM 64784	T. 4 S., R. 1 E.; Sec. 5, Lot 39. AKA portion of Tr. 86, and unlotted portion of San Antonio Riverside Drain and canal and conveyance channel, MRGCD Map 167.	2.68	$7.50	Direct.
86–24	NM 64787	T. 4 S., R. 1 E.; Sec. 8, Lot 62. AKA portion of old road, MRGCD Map 168	0.20	$2.50	Direct.
86–25	NM 66323	T. 4 S., R. 1 E.; Sec. 8, Lot 59. AKA portion of old road, MRGCD Map 168	0.09	$2.50	Direct.
86–26	NM 66343	T. 4 S., R. 1 E.; Sec. 9, Lot 12. AKA Tr. 81, MRGCD Map 168	0.50	$1,000	Direct.
86–27	NM 66344	T. 4 S., R. 1 E.; Sec. 9, Lot 17. AKA portion of Tr. 113, MRGCD Map 168	0.04	$2.50	Direct.
86–28	NM 64788	T. 4 S., R. 1 E.; Sec. 8, Lot 63. AKA portion of old road, MRGCD Map 168	0.10	$2.50	Direct.
86–29	NM 66322	T. 4 S., R. 1 E.; Sec. 8, Lot 61. AKA portion of road, MRGCD Map 168	0.36	$2.50	Direct.
86–30	NM 64760	T. 4 S., R. 1 E.; Sec. 6, Lot 55	0.02	$2.50	Direct.
86–31	NM 63905	T. 4 S., R. 1 E.; Sec. 6, Lots 58, 60, and 71	1.41	$5.00	Direct.
86–32	NM 63917	T. 4 S., R. 1 E.; Sec. 6, Lots 25, 47, and 57	0.82	$2.50	Direct.
86–33	NM 64756	T. 4 S., R. 1 E.; Sec. 6, Lot 78	0.95	$2.50	Direct.
86–34	NM 64752	T. 4 S., R. 1 E.; Sec. 6, Lot 66	3.05	$10.00	Direct.
86–35	NM 64755	T. 4 S., R. 1 E.; Sec. 6, Lot 77	0.07	$2.50	Direct.
86–36	NM 63924	T. 4 S., R. 1 E.; Sec. 5, Lots 31 and 46; Sec. 7, Lot 22	17.58	$43.95	Direct.
86–37	NM 64762	T. 4 S., R. 1 E.; Sec. 6, Lots 82 and 86	0.59	$2.50	Direct.
86–38	NM 63904	T. 4 S., R. 1 E.; Sec. 6, Lots 73, 75, and 76	Approx. 2.0	$2.50/ac	Direct.
86–39	NM 63918	T. 4 S., R. 1 E.; Sec. 6, Lots 26 and 85	0.16	$2.50	Direct.
86–40	NM 63916	T. 4 S., R. 1 E.; Sec. 6, Lot 49	Approx. 0.25	$2.50/ac	Direct.
86–41	NM 63903	T. 4 S., R. 1 E.; Sec. 6, Lots 56 and 84	0.83	$2.50	Direct.
86–42	NM 63914	T. 4 S., R. 1 E.; Sec. 6, Lots 54, 62, and 72	1.83	$5.00	Direct.
86–43	NM 64757	T. 4 S., R. 1 E.; Sec. 6, Lot 67	0.10	$2.50	Direct.
86–44	NM 64761	T. 4 S., R. 1 E.; Sec. 6, Lot 79	0.19	$2.50	Direct.
86–45	NM 64759	T. 4 S., R. 1 E.; Sec. 6, Lot 65	0.03	$2.50	Direct.
86–46	NM 66330	T. 2 S., R. 1 E.; Sec. 31, portion of Lot 9. AKA portion of Trs. 7A and 7B, MRGCD Map 159.	Approx. 2.0	$3,000/ac	Direct.

Parcel No.	Serial No.	Legal description NMPM	Acreage	Appraised value	Method of sale
86-47	NM 63915	T. 4 S., R. 1 E., Sec. 6, Lot 48	Approx. 0.25	$2.50/ac	Direct.

Sales Procedures

All bidders must be 18 years of age or over and U.S. Citizens, and corporations be subject to the laws of any state or of the United States. Bids must be made by the principal or his duly qualified agent.

Sealed bids for parcels 86–1 through 86–11 will be considered only if received in the Socorro Resource Area Office, 198 Neel Avenue, Socorro, New Mexico 87801, before 10:00 a.m., on November 30, 1987, the date of the opening. Bids of less than fair market value will be rejected as required by FLPMA.

Each sealed bid must be accompanied by postal money order, bank draft or cashier's check made payable to the Bureau of Land Management, for not less than 10 percent or more than 30 percent of the amount of the bid. The sealed bid envelope must be marked in the lower left-hand corner as follows:

"Public Sale Bid Parcel ———,
Serial No. ————,
Sale Held ———, 1987.
(date)

The highest qualifying bid for each parcel will establish the sale price for that parcel. If two or more envelopes are received containing valid bids of the same amount for the same parcel, the determination of which is to be considered the highest designated bid will be by supplemental biddings. In such a case, the high bidders will be allowed to submit oral or sealed bids as designated by the Authorized Officer.

The successful bidder will be required to pay the remainder of the sale price prior to expiration of 180 days from the date of the sale. Failure to submit the full sale price within the above specified time limit will result in cancellation of the sale of the specific parcel and the deposit will be forfeited and disposed of as other receipts of sale.

All bids will be either returned, accepted, or rejected within 30 days of the sale date. Parcels not sold on the day of the sale will be offered for sale every first Tuesday of each month, same time and place, on a competitive sealed bid basis until sold, or until May 30, 1988, at close of business.

Parcels 86–10 and 86–11 will be offered as modified competitive sales to the designated bidders who are the known accessible landowners. Only bids from the following designated bidders will be accepted on parcel 86–10:

1. J. M. Ortega, Box 342, Socorro, New Mexico 87801
2. Rudy Olguin, Rt. 1, Box 303, Stanfield, Arizona 85272
3. Pedro Pino, Box 735, Socorro, New Mexico 87801
4. New Mexico Department of Game and Fish, State Capitol, Santa Fe, New Mexico 87503

Only bids from the following designated bidders will be accepted for parcel No. 11:

1. Ambrocio Armijo, Box 1878, Socorro, New Mexico 87801
2. Estate of Dulcinea G. Lopez, whose last known address was 107 Neel, Socorro, New Mexico 87801
3. Ludvig Nielson, P. O. Box 2461, Las Cruces, New Mexico 88004
4. Ralph and Sophie Pina, 3581 Mocassin Avenue, San Diego, California 92117
5. Estate of Jose Saavedra, whose last known address was c/o Onesimo Saavedra, Socorro, NM 87801

Parcel 86–12

County of Socorro, Box I, Socorro, New Mexico 87801

Parcel 86–13

Albert Zimmerly, Box 1484, Socorro, New Mexico 87801

Parcel 86–14

Joe C. Olguin Box 1601, Socorro, New Mexico 87801

Parcel 86–15

Lawrence Jaksha, P. O. Box 922, Socorro, New Mexico 87801

Parcel 86–16

William M. Emillio, P. O. Box 5, Socorro, New Mexico 87801

Parcel 86–17

Juan Maria Pino, et al, c/o Pete Pino, Box 735, Socorro, New Mexico 87801

Parcel 86–18

Robert V. Sanchez, 212 Mt. Carmel, Socorro, New Mexico 87801

Parcel 86–19

Middle River Grande Conservancy District (MRGCD), P.O. Box 581, Albuquerque, New Mexico 87103

Parcel 86–20

Paul Marshall, P.O. Drawer CC, Socorro, New Mexico 87801

Parcel 86–21

Karen A. Abraham, Larry P. Abraham, and Sandra K. Dhier; 8513 Chambers Place, N.E., Albuquerque, New Mexico 87109

Parcel 86–22

Felix Lopez, Rt. 2, Box 138, Socorro, New Mexico 87801

Parcel 86–23

MRGCD, Box 581, Albuquerque, New Mexico 87103

Parcel 86–24

Emmet Brieger, Bonito Route, Nogal, New Mexico 88341

Parcel 86–25

Orlando Armijo, Route 2, Box 706E, Alamogordo, New Mexico 88310

Parcel 86–26

Ludvig D. and Elicia E. Nielson, P.O. Box 2461, Las Cruces, New Mexico 88003

Parcel 86–27

Ambrocio Armijo, Box 1878, Socorro, New Mexico 87801

Parcel 86–28

Ralph G. and Sophie Pina, 3581 Mocassin Avenue, San Diego, California 92117

Parcel 86–29

County of Socorro, Box I, Socorro, New Mexico 87801

Parcel 86–30

MRGCD, Box 581, Albuquerque, New Mexico 87103

Parcel 86–31

Ernest Zamora, Route 2, Box 82, Socorro, New Mexico 87801

Parcel 86–32

Paul Marshall, P.O. Box CC, Socorro, New Mexixo 87801

Parcel 86–33

John Gerbracht, 855 Ft. Sheldon Road, Las Cruces, New Mexico 88001

Parcel 86–34

State of New Mexico Highway Department, Box 1149, Santa Fe, New Mexico 87501

Parcel 86–35

Pete Saavedra, Lost Canyon, Elephant Butte, New Mexico

Parcel 86–36

AT&SF Railway, 900 Polk Street, Amarillo, Texas 71971

Parcel 86–37

Charles Headen and Herbert Cushing, Box 858, Socorro, New Mexico 87801

Parcel 86–38

Amado Gallegos, Box 104, San Antonio, New Mexico 87832

Parcel 86–39

David Gonazalez, Route 2, Box 129, Socorro, New Mexico 87801

Parcel 86–40

Candido Miranda, 814 Padilla Place, Socorro, New Mexico 87801

Parcel 86–41

Billy Bachman, Box 1551, Socorro, New Mexico 87801

Parcel 86–42

County of Socorro, Box I, Socorro, New Mexico 87801

Parcel 86–43

Jimmy Zamora, Star Route, Box 82, Socorro, New Mexico 87801

Parcel 86–44

Fred DuBois, Star Route 2, Box 153, Socorro, New Mexico 87801

Parcel 86–45

Alex P. Lopez, 208 Highway 60, Socorro, New Mexico 87801

Parcel 86–46

Cornelio, Nattie, Tomas, and Frances Gonzales, P.O. Box 654, Socorro, New Mexico 87801

Parcel 86–47

Henry Padilla, 802 Padilla Place, Socorro, New Mexico 87801

Terms and Conditions

Terms and conditions applicable to the sale are:

1. The patents, when and if issued, will contain a reservation to the United States for ditches and canals.

2. All minerals will be reserved to the United States together with the right to prospect for, mine, and remove the minerals.

3. All patents will be issued subject to valid existing rights.

4. Parcels 1 and 6, 10–25, 27–28, 30–32, 36–42 and 46–47 lie within a floodplain, and the patents will contain land use restrictions as required by Executive Order 11988.

5. On parcels 10, 19, 20, 21, and 27, the patents will contain wetland restrictions.

6. On parcels 6–9, 34, 36, 38, and 41–43, the patents will be issued subject to right-of-way NM 66329 for a Socorro Electric Cooperative power line.

7. On parcels 6, 9, 33, 38, 43, and 44, the patents will be issued subject to right-of-way NM 09223 to the New Mexico State Highway Department.

8. On parcels 10, 20, and 21, the patent will contain a reservation to the U.S. Government for Bureau of Reclamation's (BOR's) Escondida Drain.

9. On parcels 6, 9, 31, 32, 40, and 47, the patent will be issued subject to an existing access road.

10. Parcels 2–5 are encumberd by the Socorro Electric Cooperative's power lines.

11. On parcel 2, the patent will be issued subject to right-of-way NM 20855 for water facilities.

DATES: Interested parties may submit comments regarding the proposed action to the Socorro Resource Area Manager on or before November 2, 1987.

ADDRESSES: Comments should be sent to Bureau of Land Management, Socorro Resource Area, 198 Neel Avenue NW., Socorro, NM 87801.

FOR FURTHER INFORMATION CONTACT: Jon Hertz, Chella Herrera, or Lois Bell at (505) 835–0412.

SUPPLEMENTARY INFORMATION: Additional information concerning the land, terms and conditions of sale, and bidding instruction may be obtained from the Socorro Resource Area Office at the above address.

Comments must reference specific parcel numbers. Adverse comments received on specific parcels will not affect the sale of any other parcel. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Upon publication in the **Federal Register**, the land described above will be segregated from appropriation under the public land laws, including the mining laws. The segregative effect of this notice of realty action shall terminate upon issuance of patent or other document of conveyance to such land, upon publication in the **Federal Register** of a termination of the segregation or 270 days from the date of publication, whichever occurs first.

The BLM may accept or reject any or all offers, or withdraw any land or interest in land for sale, if, in the opinion of the Authorized Officer, consummation of the sale would not be fully consistent with FLPMA or another applicable law.

Robert R. Calkins,

Acting District Manager.

[FR Doc. 87–21475 Filed 9–16–87; 8:45 am]

BILLING CODE 4310–FB–M

[WY–060–07–4212–14–W–88722]

Postponement of Realty Action for Public Lands in Goshen County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Postponement of sale data for realty action in Goshen County, Wyoming.

SUMMARY: The sale date of September 23, 1987 for a realty action (a modified competitive sale) for land parcel W–88722, T. 23 N., R. 62 W., Section 29, W½SW¼, Sectioin 32, NW¼, Sixth Principal Meridian, published in the **Federal Register** on Thursday July 30, 1987 (52 *FR* 28488–28489) is hereby postponed until further notice, pending further analysis.

Any sale bids will be returned immediately to the party of issuance.

When further analysis is completed, a decision will be made as to whether to reoffer the parcel for sale. If the parcel should be made available for sale, the sale date will be rescheduled and all affected parties contacted.

SUPPLEMENTARY INFORMATION: For any further information, contact the Platte River Resource Area Office, P.O. Box 2420, 815 Connie, Mills, WY 82644, phone (307) 261–5008.

Dated: September 10, 1987.

Donald D. Whyde,

Acting District Manager.

[FR Doc. 87–21518 Filed 9–16–87; 8:45 am]

BILLING CODE 4310–22–M

[CA–940–07–4520–12; Group 960]

Plat of Survey; California

September 9, 1987.

1. This plat of the following described land will be immediately placed in the open files in the California State Office, Sacramento, California, and will be available to the public as a matter of information. Copies of this plat and related field notes may be furnished to the public upon payment of the appropriate fee. Public notice, as provided in 43 CFR 1813.1–2 (BLM Manual, section 2097—Opening Orders) is required. The date selected for the filing shall be at least 45 days after the date the **Federal Register** Notice is signed:

Mount Diablo Meridian, Tulare County

T. 17 S., R. 29 E.

2. This plat (two sheets) representing the dependent resurvey of a portion of the subdivisional lines, the survey of the

subdivision of Section 9, and the survey of Lots 1, 2, 3, 4, 5, and 6 in Section 9, Township 17 South, Range 29 East, Mount Diablo Meridian, California, under Group No. 960, California, was accepted August 14, 1987.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau.

5. All inquiries relating to the land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 87–21439 Filed 9–16–87; 8:45 am]

BILLING CODE 4310–40–M

[CA–940–07–4520–12; C–9–87]

Filing of Plat of Survey; California

September 9, 1987.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Plumas County

T. 26 N., R. 9 E.

2. This supplemental plat of the N ½ of Section 16, Township 26 North, Range 9 East, Mount Diablo Meridian, California, was accepted September 1, 1987.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Plumas National Forest.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 87–21440 Filed 9–16–87; 8:45 am]

BILLING CODE 4310–40–M

[CA–940–07–4520–12; C–2–87]

Filing of Plat of Survey; California

September 9, 1987.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Shasta County

T. 38 N., R. 4 W.

2. This supplemental plat of Section 22, Township 38 North, Range 4 West, Mount Diablo Meridian, California, was accepted July 28, 1987.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Shasta National Forest.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief Public Information Section.

[FR Doc. 87–21441 Filed 9–16–87; 8:45 am]

BILLING CODE 4310–40–M

[CA–940–07–4520–12; C–7–87]

Filing of Plat of Survey; California

September 9, 1987.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Shasta County

T. 37 N., R. 5 W.

2. This supplemental plat of Section 2, Township 37 North, Range 5 West, Mount Diablo Meridian, California, was accepted August 7, 1987.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Shasta-Trinity National Forest.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 87–21442 Filed 9–16–87; 8:45 am]

BILLING CODE 4310–40–M

[CA–940–07–4520–12; C–5–87]

Filing of Plat of Survey; California

September 9, 1987.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Plumas County

T. 26 N., R. 9 E.

2. This supplemental plat of the S½ Section 9, Township 26 North, Range 9 East, Mount Diablo Meridian, California, was accepted August 7, 1987.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Plumas National Forest.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 87–21443 Filed 9–16–87; 8:45 am]

BILLING CODE 4310–40–M

[ID–010–07–4322–02–ADBD]

Boise District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Boise District Office.

ACTION: Notice of meeting.

SUMMARY: The Boise BLM District will conduct a meeting of the District Grazing Advisory Board on October 14 and 15, 1987. The meeting agenda for October 14 will include a summary of proposed Fiscal Year 1988 range improvement projects, a summary of Fiscal Year 1987 range improvement accomplishments, a review of riparian management projects, and a discussion of the planned greenstripping program. A tour of range improvement projects will be conducted October 15.

DATES: Wednesday, October 14 and Thursday, October 15, 1987.

ADDRESS: Boise District, Bureau of Land Management, 3948 Development Avenue, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Barry Rose, Public Affairs Specialist, Boise BLM District, (208) 334–9661.

J. David Brunner,

District Manager.

September 9, 1987.

[FR Doc. 87–21516 Filed 9–16–87; 8:45 am]

BILLING CODE 4310–GG–M

[MT–921–07–4121–10]

Public Meeting Announcement and Request for Public Comments on Long-Range Market Analysis; Fort Union Regional Coal Team Activities

ACTION: Notice of public meeting.

SUMMARY: The Fort Union Regional Coal Team (RCT) requests public comments on a Fort Union regional long-range market analysis by October 19, 1987. The RCT will review the long-range analysis and public comments during a public meeting on November 5, 1987. The primary purpose of this RCT meeting will be to assess the need to resume federal coal leasing in the Fort Union Coal Region. The full agenda for the RCT meeting is listed below.

DATE: The RCT will meet at 8:30 a.m. on November 5, 1987. Long-range market analysis comments must be submitted by October 19, 1987, in order to assure full consideration.

ADDRESS: The RCT meeting will be held in the Sky Top Room, on the 24th floor of the Billings Sheraton Hotel located at 27 North 27th Street, Billings, Montana 59101. The telephone number there is Area Code 406, 252–7400. Comments regarding the Fort Union long-range market analysis should be sent to Bill Frey, Bureau of Land Management, P.O. Box 36800, Billings, MT 59107.

FOR FURTHER INFORMATION CONTACT: Bill Frey, Telephone (406) 657–6841 or FTS 585–6841.

SUPPLEMENTARY INFORMATION: Copies of the Fort Union regional long-range market analysis may be obtained from Bill Frey at the above specified address or telephone numbers. Public comments received by October 19, 1987, will be reviewed by the RCT during the meeting on November 5, 1987. The market analysis and public comments will be major factors used by the RCT in recommending whether or not to resume coal leasing activity planning.

Public input opportunities will be provided on all agenda items. The agenda for this meeting is as follows:

I. Introduction
II. Approval of Minutes of Last RCT Meeting
III. Regional Activity Status
  A. Production
  B. PRLAs
  C. Exchange
  D. Emergency Leasing
  E. Planning (North Dakota Resource Management Plan)
IV. Long-Range Market Analysis
  A. Summarize Document
  B. Review Comments
V. RCT Activity Planning Recommendations
  A. Resumption or Deferral of Activity Planning
  B. Select RCT Operating Mode
VI. Data Adequacy Standards

Marvin LeNoue,

Acting State Director.

[FR Doc. 87–21435 Filed 9–16–87; 8:45 am]

BILLING CODE 4310–DN–M

[CO–030–4410–08–1784]

Montrose District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with 43 CFR Subpart 1784, that a meeting of the Montrose District Advisory Council will be held October 29, 1987 in Montrose, Colorado.

DATES: Requests to present oral comments must be received by October 26, 1987. The meeting is scheduled October 29, 1987.

ADDRESS: Submit requests to comment or requests for further information to: District Manager, Bureau of Land Management, Montrose District Office, 2465 South Townsend Avenue, Montrose, Colorado 81401.

SUPPLEMENTARY INFORMATION: The meeting will convene at 9:30 a.m. in the Montrose District conference room. The meeting is open to the public; anyone wishing to make an oral statement must notify the District Manager by October 26, 1987.

The agenda will include:

1. Election of officers.

2. Discussion of District Manager's priorities.

3. Update on Resource Area programs and issues.

4. Discussion of the Gunnison Gorge Recreation Area Management Plan amendment.

5. Discussion of the Draft Uncompahgre Basin Resource Management Plan.

Dated: September 9, 1987.

Ken Herman,

Acting District Manager.

[FR Doc. 87–21436 Filed 9–16–87; 8:45 am]

BILLING CODE 4310–JB–M

Bureau of Reclamation

Draft Environmental Impact Statement; Change of Water Use in Willard Reservoir, Weber Basin Project, Utah

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of draft environmental impact statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, the Department of the Interior has prepared a Draft Environmental Impact Statement (DES) on the change of water use in the Willard (A. V. Watkins) Reservoir, a feature of the Weber Basin Project, Utah.

Public hearings will be held in the project area. Oral statements at the hearings will be limited to 10 minutes each. Speakers will be scheduled according to their time preference, if any, as requested by letter or telephone. Requests for scheduled presentations will be accepted until 4 p.m. on October 19, 1987. Written comments should be submitted to the Regional Director's office address, Attention: UC–400, in Salt Lake City, Utah, by November 10, 1987. Written comments received by this date will be printed in full in the final environmental statement.

DATES:

Weber County Health Department Auditorium, 2570 Grant Avenue, Ogden, Utah—October 20, 1987

City County Building, City Council Chamber, 325 South State Street, Suite 3, Salt Lake City, Utah—October 21, 1987

ADDRESSES: Copies of the DES can be obtained by contacting one of the following offices:

1. Director, Office of Environmental Affairs, Room 7425, Bureau of Reclamation Washington, DC 20240, telephone (202) 343–4991.

2. Regional Director, Bureau of Reclamation, P.O. Box 11568, Salt Lake City, Utah 84147, telephone (801) 524–5580.

3. Utah Projects Office, Bureau of Reclamation, P.O. Box 1338, Provo, Utah 84603, telephone (801) 379–1000.

FOR FURTHER INFORMATION CONTACT: Anyone interested in presenting statements at the hearings should

contact Kate O'Hare, Bureau of Reclamation, Utah Projects Office, P.O. Box 1338, Provo, Utah 84601, or telephone (801) 379–1000.

SUPPLEMENTARY INFORMATION: The DES describes environmental impacts of five alternatives for using 33,000 acre-feet of currently unsold water in Willard Reservoir. The 215,000 acre-foot capacity reservoir was originally intended to provide irrigation service to agricultural lands along an area on the eastern shore of the Great Salt Lake. However, since the reservoir completion 23 years ago, the demand for irrigation water did not develop as anticipated, leaving about 33,000 acre-feet of available water unsold. This, in combination with a series of unusually wet years, contributed to an unplanned stable water surface which could sustain a reservoir fishery and encourage a much higher amount of recreation use than expected. The administering agency, the Weber Basin Water Conservancy District, has proposed selling the water for municipal and industrial (M&I) use. The State Division of Wildlife Resources, Division of Parks and Recreation, and the U.S. Fish and Wildlife Service recognize that they made no early recommendations for fish and recreation use of the reservoir. However, developments now indicate a strong demand for such use, and these agencies now recommend that consideration be given to holding the water in the reservoir for fish and recreation purposes.

Five alternatives are being evaluated in the NEPA document. The first alternative would have the project proceed as originally designed and authorized. The 33,000 acre-feet of water would remain available for irrigation use. This plan constitutes the "No Federal Action" alternative required by NEPA.

The second alternative would limit project water sales to the present level. The 33,000 acre-feet of unsold water would have to be purchased by a public entity which would facilitate holding the water in the reservoir for fish, wildlife, and recreation purposes. Because of the large amounts of precipitation and high streamflow that have occurred in recent years, some of the water sold has not been used. This has resulted in a fairly stable water level in the reservoir. Under average or dry conditions, all of the sold water would be used and cause the reservoir to drop. The impact of using all sold water with the 33,000 acre-feet held for fish and recreation is described in the document.

The third alternative is proposed by the Weber Basin Water Conservancy District. The 33,000 acre-feet of unsold irrigation water would be converted and sold for M&I purposes.

The fourth alternative would limit the sale of water to the present level and in addition, provide recommended seasonal water elevations for fisheries and recreation. A public entity would have to not only purchase the 33,000 acre-feet of unsold water, but would also have to acquire some water already sold to irrigators in order to hold reservoir levels to those necessary for fish and recreation.

The fifth alternative is a combination of the third and fourth alternatives. The 33,000 acre-feet of unsold irrigation water would be converted for M&I use and also provide the seasonal water elevations recommended for fisheries and recreation. This alternative would also require the buy back of some additional water already sold.

Dated: September 14, 1987.

J. Austin Burke,

Acting Commissioner.

[FR Doc. 87–21557 Filed 9–16–87; 8:45 am]

BILLING CODE 4310–09–M

Fish and Wildlife Service

Draft Policy for Cabin Management on National Wildlife Refuges in Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service *draft* policy concerning cabin management on national wildlife refuges in Alaska is now available for review. Comments and suggestions are solicited.

DATES: Comments must be received on or before November 16, 1987, to be considered in the development of the final policy.

ADDRESS: Comments should be directed to: Regional Director, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, AK 99503–6199, Attention: Bill Kauer.

FOR FURTHER INFORMATION CONTACT: Bill Knauer at the above address or telephone (907) 786–3399.

SUPPLEMENTARY INFORMATION: The original cabin policy for the Fish and Wildlife Service was developed in 1981 and revised in 1984 and was used as the basis for regulations printed in the Code of Federal Regulations Title 50. We believe revisions are needed in the existing cabin policy and regulations in order to:

(1) Clarify some of the language in the original policy and correct some of the interpretation;

(2) Develop a more complete set of regulations that accurately reflect the intentions of the Alaska National Interest Lands Conservation Act;

(3) Resolve some of the problems refuge managers have had in implementing the policy;

(4) Resolve some of the concerns expressed by the public users; and

The intent of this draft policy is to allow for the continued customary and traditional uses of existing cabins (constructed prior to December 2, 1980), provided that the uses are consistent with existing laws and regulations and compatible with the purposes for which the refuge was established. In addition, the intent of the draft policy is to limit new cabins to those essential for the continuation of an ongoing activity or use allowed within a refuge.

Copies of the draft policy are available from any national wildlife refuge in Alaska, from the Regional Office (address above) or by calling Ms Gina Mullen in the Alaska Regional Office at (907) 786–3390.

Once the policy is finalized we will develop draft regulations for the public's consideration and subsequent incorporation into the Code of Federal Regulations.

Dated: September 4, 1987.

Walter O. Stieglitz,

Regional Director.

[FR Doc. 87–21493 Filed 9–16–87; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Development Operations Coordination Document; Brooklyn Union Exploration Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Brooklyn Union Exploration Company, Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 2598, Block 252, South Marsh Island Area, offshore Louisiana. Proposed plans for the above area provided for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Freshwater City, Louisiana.

DATE: The subject DOCD was deemed submitted on September 9, 1987.

ADDRESS: A copy of the subject DOCD is availale for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: September 10, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87–21444 Filed 9–16–87; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–291; Sub-No. 1X]

Andalusia & Conecuh Railroad Company; Abandonment Between Andalusia and Gantt, AL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 10505, the Interstate Commerce Commission exempts the Andalusia and Conecuh Railroad Company from the requirements of 49 U.S.C. 10903, *et seq.*, for the abandonment of its entire 8-mile line between milepost S–429 plus 700 feet at Andalusia, and milepost S–421 minus 1784.2 feet at Gantt, AL, subject to a condition that, while operations over a 2-mile segment at Andalusia may be discontinued, abandonment of that segment may not be effected until the Alabama and Florida Railroad Company, which has trackage rights over that segment, obtains authority or an exemption to discontinue the trackage rights.

DATES: This exemption will be effective on October 17, 1987. Petitions for stay must be filed by September 28, 1987, and petitions to reopen must be filed by October 7, 1987.

ADDRESSES: Send pleadings referring to Docket No. AB–291 (Sub-No. 1X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Deborah A. Phillips, Esq., Suite 800, 1350 New York Ave. NW., Washington, DC 20005–4797

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7246. (TDD for hearing impaired: (202) 275–1721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission, Washington, DC 20423, or call (202) 289–4357 (assistance for the hearing impaired is available through TDD services (202) 275–1721) or by pickup from TSI in Room 2229 at Commission headquarters.

Decided: August 28, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons. Vice Chairman Lamboley dissented with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 87–21578 Filed 9–16–87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Pollution Control; Logdging of a Stipulation of Dismissal; Hawthorne, Inc.

In accordance with Departmental policy, 28 CFR § 50.7, notice is hereby given that on *September 9, 1987* a proposed Consent Decree in *United States* v. *Hawthorne, Inc.*, Civil Action No. 86–0265, was lodged with the United States District Court for the Eastern District of Pennsylvania.

The Complaint filed by the United States alleged that the defendants had violated the National Emission Standard for Hazardous Air Pollutants (NESHAP) for asbestos, 40 CFR Part 61, and the Clean Air Act, 42 U.S.C. 7401, and requested permanent injunctive relief and imposition of civil penalties. The proposed Consent Decree requires the defendant to comply with all notification provisions of the Asbestos NESHAP and to pay a total civil penalty of $57,500. The defendant will notify EPA of all future demolition activity involving asbestos by the company. In addition, Hawthorne shall develop as Asbestos Control Program (ACP) to detail procedures for complying with the Asbestos NESHAP and Consent Decree requirements.

The Department of Justice will receive for a period of thirty days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Robert Hawthorne, Inc.*, DOJ # Ref. 90–5–2–1–872. The proposed Consent Decree may be examined at the office of the United States Attorney, Eastern District of Pennsylvania, 601 Market Street, Philadelphia, Pennsylvania 19107. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1517, Ninth and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice. In requesting a copy, please enclose a check in the amount of $1.70 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87–21445 Filed 9–16–87; 8:45 am]

BILLING CODE 4410-01-M

Pollution Control; Lodging of Consent Decree; Heitland, et al.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on August 11, 1987, a proposed consent decree in *United States* v. *Heitland, et al.*, Civil Action No. C86–3041 (N.D. Iowa) was lodged with the United States District Court, Northern District of Iowa, Central Division. The complaint filed by the United States alleged violations of the Clean Air Act and the National Emission Standards for Hazardous Air Pollutants (NESHAP) for asbestos by defendants. The complaint sought injunctive relief to require the defendants to comply with the Clean Air Act and the NESHAP for asbestos and civil penalties for past violations.

The consent decree provides for the payment of $10 thousand ($10,000) in

civil penalties and enjoins the defendants from any future actions in violation of the asbestos NESHAP.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *George Heitland, et al.*, Department of Justice reference 90–5–2–1–938.

The proposed consent decree may be examined at the office of the United States Attorney, Northern District of Iowa Cedar Rapids, Iowa 52407 and at the Region VII office of the United States Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas 66101. Copies of the proposed consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1535, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice. When requesting a copy, please refer to *United States* v. *George Heitland et al.*, Department of Justice Reference 90–5–2–1–755.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87–21446 Filed 9–16–87; 8:45 am]

BILLING CODE 4410–01–M

Pollution Control; Lodging of Consent Decree; Valmac Industries, Inc.

In accordance with departmental policy, 28 CFR 50.7, notice is hereby given that on August 31, 1987 a proposed consent decree in *United States* v. *Valmac Industries, Inc.*, Civil Action No. 86–2005 was lodged with the United States District Court for the Western District of Arkansas. The proposed consent decree concerns a complaint filed by the United States that alleged violations of section 301 of the Clean Water Act, 33 U.S.C. 1311 at Valmac Industries, Inc.'s facility in Bloomer, Sebastian County, Arkansas. The complaint alleged that Valmac discharged pollutants into navigable waters in violation of the limitations in the National Pollutant Discharge Elimination System ("NPDES") permit for the Bloomer facility. The complaint sought injunctive relief to require Valmac Industries to comply with its NPDES permit and civil penalties for past violations. The consent decree requires Valmac to pay a civil penalty of $85,000 in settlement of the government's civil penalty claims.

The Department of Justice will receive for a period of thirty (30) days from the date of the publication comments relating to the proposed consent decrees. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Valmac Industries, Inc.*, D.J. Ref. 90–5–1–1–2551.

The proposed consent decree may be examined at the office of the United States Attorney for the Western District of Arkansas, United States Post Office and Courthouse Building, 6th and Rogers, Fort Smith, Arkansas 72901 and at the Region VI office of the United States Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202. Copies of the consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87–21447 Filed 9–16–87; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 87–74]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Informal Executive Subcommittee.

Date and Time: October 5, 1987, 12:30 p.m. to 5:30 p.m.

ADDRESS: National Aeronautics and Space Administration, Room 7002, Federal Building 6, 400 Maryland Avenue, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Nathaniel B. Cohen, Code F, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–8335).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council Informal Executive Subcommittee was established under the NASA Advisory Council to assist the Chair in planning the activities, establishing meeting agendas, and otherwise guiding the activities of the Council. The subcommittee is chaired by Mr. Daniel J. Fink, and includes eight other members, seven of whom chair standing committees of the Council.

The meeting will be closed to the public. The sole agenda item will be planning for the coming year of the activities of the Council, the committees, and their task forces, with emphasis throughout on prospective future membership of each of these groups and their interactions with NASA and outside parties. Throughout the sessions, the qualifications of these individuals will be candidly discussed and appraised with respect to the tasks to be accomplished. Because the meeting will be concerned throughout with matters listed in 5 U.S.C. 552(c)(6), it has been determined that this meeting should be closed to the public.

Type of meeting: Closed.

Richard L. Daniels,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

September 11, 1987.

[FR Doc. 87–21542 Filed 9–16–87; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Chemistry; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Chemistry.

Date and Time: October 8–9, 1987; 9:00 AM to 5:00 PM each day.

Place: Room 540, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Open.

Contact Person: Dr. Kenneth G. Hancock, Acting Director, Division of Chemistry, National Science Foundation, Washington, DC 20550, Telephone (202) 357–7947.

Summary Minutes: May be obtained from Dr. Kenneth G. Hancock.

Purpose of Committee: To provide advice and recommendations concerning NSF support for research in chemistry.

Agenda: Open-Discussion of the current status and future plans of the Chemistry Division's activities.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 87-21507 Filed 9-16-87; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Ecology; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Ecology.

Date and Time: October 8 and 9, 1987—8:30 a.m. to 5:00 p.m. each day.

Place: Room 643, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Patrick J. Webber, Program Director, Ecology, (202) 357-9734, Room 215, National Science Foundation, Washington, DC 20550.

Summary Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for research in ecology.

Agenda: Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c). Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 87-21508 Filed 9-16-87; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Ecosystem Studies; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Ecosystem Studies.

Date and Time: October 8 and 9, 1987—8:30 a.m. to 5:00 p.m. each day.

Place: Room 543, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Jerry M. Melillo, Program Director, Ecosystem Studies, (202) 357-9596, Room 215, National Science Foundation, Washington, DC 20550.

Summary Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for research in ecosystem studies.

Agenda: Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c). Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 87-21509 Filed 9-16-87; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Population Biology and Physiological Ecology; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Population Biology and Physiological Ecology.

Date and Time: October 8 and 9, 1987—8:30 a.m. to 5:00 p.m.

Place: Room 1242, National Science foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: closed.

Contact Person: Dr. Martyn M. Caldwell, Program Director, Population Biology and Physiological Ecology, (202) 357-9728, Room 215, National Science Foundation, Washington, DC 20550.

Summary Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for research in population biology and physiological ecology.

Agenda: Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 87-21510 Filed 9-16-87; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Regulatory Biology; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Regulatory Biology.

Date and Time: October 7, 8, and 9, 1987—8:30 a.m. to 5:00 p.m.

Place: Room 1243, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Stephen Bishop, Program Director, Regulatory Biology Program, Room 321, National Science Foundation, Washington, DC 20550, Telephone 202/357-7975.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research in regulatory biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 87-21511 Filed 9-16-87; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Systematic Biology; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Systematic Biology.

Date and Time: October 5 and 6, 1987—8:30 a.m. to 5:00 p.m. each day.

Place: Room 1242, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. James E. Rodman, Acting Program Director, Systematic Biology, (202) 357-9588, Room 215, National Science Foundation, Washington, DC 20550.

Summary Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for research in systematic biology.

Agenda: Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 87-21512 Filed 9-16-87; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-389]

Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination; Florida Power and Light Co.

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-16, issued to Florida Power and Light Company, et al., (the licensee) for operation of the St. Lucie Plant, Unit No. 2, located in St. Lucie County, Florida.

The proposed amendment would add a special inspection region associated with the batwings of the steam generators. Research conducted by the licensee and Combustion Engineering (CE) has concluded that augmented inspection of the batwing area of the CE-designed model 3410 steam generators is necessary in order to monitor tube wear and to take remedial action, as necessary. The wear is the result of out-of-plane vibration of the batwing supports. The inspection of the remaining tubes will continue to be governed by the current technical specification requirements. The proposed change to the technical specifications would be made in response to the licensee's application for amendment dated September 4, 1987, as supplemented by letter dated September 11, 1987.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the request for amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application, as restated below:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment increases the surveillance requirements, for a defined area of tubes in the steam generators. This inspection pattern ensures that the area within the steam generator tube bundle representing the highest likelihood of damage will always be examined. The inspection of the remainder of the tube bundle will continue to be governed by the current technical specification requirements. The probability of not detecting a steam generator tube problem becomes very low.

(2) Use of the modified specification would not create the possibility of a new or different kind of accident from any accident previously evaluated.

This modified specification applies to the inspection of a specific region of tubes in the steam generator while maintaining the intent of the specification. Since no change to the design or operation of the systems or components of the plant are involved, this change will not create the possibility of a new or different kind of accident from any previously evaluated.

(3) Use of the modified specification would not involve a significant reduction in a margin of safety.

The margin of safety involved in steam generator tube inspection depends on the accuracy and completeness of the examination. The wear mechanism seen at St. Lucie Unit 2 is well[-]defined and well within the capability of the inspection techniques. Using the predictive models based upon experiments and analysis, the area of concern is identified and will continuously be inspected. The current Technical Specifications will be applied elsewhere in the steam generator to ensure [that] future problems (if any) are identified. Therefore, this change will not involve a significant reduction in a margin of safety.

The St. Lucie Plant, Unit No. 2 is scheduled for refueling in early October. One of the requirements during refueling is to inspect steam generator tubes. The existing technical specifications do not address the recently identified need to inspect steam generator tubes in the batwing region of the steam generators where wear is occurring. The proposed change would add a special inspection region associated with the batwings, for the upcoming and all future steam generator tube inspections, in order to fully characterize the region, monitor tube wear and take remedial action as necessary. The inspection of the remaining tubes in the steam generators will be conducted per the existing technical specifications. Although the wear is a long-term phenomenon which is expected to occur over the life of the steam generators, it is prudent to take action now, during the early stages of the wear. The staff has determined that failure to act in a timely manner would result in requiring the licensee to follow the existing technical specifications regarding steam generator tube sample selection and inspection. The staff has further determined that the overall safety of the plant would be enhanced if the special inspection area was added to the technical specifications prior to the scheduled inspection. The inspection of the steam generator tubes is one of the first major outage-related efforts undertaken because of the length of time that is required to inspect tubes during the outage. Therefore, the Commission has insufficient time to issue its usual 30-day notice of the proposed action for public comment.

If the proposed determination becomes final, an opportunity for a hearing will be published in the **Federal Register** at a later date and any hearing request will not delay the effective date of the amendment.

If the Commission decides in its final determination that the amendment does involve a significant hazards consideration, a notice of opportunity for a prior hearing will be published in the **Federal Register** and, if a hearing is granted, it will be held before any amendment is issued.

The Commission is seeking public comments on this proposed determination of no significant hazards consideration. Comments on the proposed determination may be telephoned to Herbert Berkow, Project Director, Project Directorate II-2, by collect call to (301) 492-7872, or submitted in writing to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclar Regulatory Commission, Washington, DC 20555. Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. All comments received by October 2, 1987, will be considered in reaching a final determination. A copy of the application and any comments received may be examined at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450.

Dated at Bethesda, Maryland, this 11th day of September, 1987.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Project Director,

PWR Project Directorate #2,

Division of Reactor Projects-I/II.

[FR Doc. 87-21501 Filed 9-16-87; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

September 1, 1987.

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of August 1, 1987, of 57 deferrals contained in the six special messages of FY 1987. These messages were transmitted to the Congress on September 26, and December 15, 1986, and January 5 and 28, March 4, and August 27, 1987.

Rescissions (Table A and Attachment A)

As of September 1, 1987, there were no rescission proposals pending before the Congress.

Deferrals (Table B and Attachment B)

As of September 1, 1987, $2,875.6 million in 1987 budget authority was being deferred from obligation. Attachment B shows the history and status of each deferral reported during FY 1987.

Information From Special Messages

The special message containing information on the deferrals covered by this cumulative report is printed in the **Federal Register** listed below:

Vol. 51, FR p. 35976, Tuesday, October 7, 1986

Vol. 51, FR p. 47356, Wednesday, December 31, 1986

Vol. 52, FR p. 964, Friday, January 9, 1987

Vol. 52, FR p. 3552, Wednesday, February 4, 1987

Vol. 52, FR p. 8046, Friday, March 13, 1987

Vol. 52, FR p. 33374, Wednesday, September 2, 1987

James C. Miller III,

Director.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1987 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President.....	$5,835.8
Accepted by the Congress.....	36.0
Rejected by the Congress.....	5,799.8
Pending before the Congress.....	0

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TABLE B

STATUS OF 1987 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President.....	11,494.6
Routine Executive releases through Sept. 1, 1987 (OMB/Agency releases of $8,446.5 million and cumulative adjustments of $1.7 million)	-8,444.7
Overturned by the Congress.....	-174.3
Currently before the Congress.....	2,875.6

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1987

As of September 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
DEPARTMENT OF AGRICULTURE								
Agricultural Research Service								
Buildings and facilities.....	R87-1	28,000		1-5-87		28,000	3-16-87	
	R87-1A			1-28-87				
Agricultural Stabilization and Conservation Service								
Rural clean water program.....	R87-2	6,000		1-5-87	6,000	6,000	3-16-87	P.L. 100-71
Agricultural conservation program.....	R87-3	164,356		1-5-87		164,356	3-16-87	
Water bank program.....	R87-4	8,166		1-5-87		8,166	3-16-87	
Emergency conservation program.....	R87-5	10,000		1-5-87		10,000	3-16-87	
Farmers Home Administration								
Rural water and waste disposal grants....	R87-6	79,500		1-5-87		79,500	3-16-87	
Rural community fire protection grants...	R87-7	2,300		1-5-87		2,300	3-16-87	
Rural housing for domestic farm labor....	R87-8	7,400		1-5-87		7,400	3-16-87	
Mutual and self-help housing.....	R87-9	8,000		1-5-87		8,000	3-16-87	
Very low income housing repair grants....	R87-10	9,400		1-5-87		9,400	3-16-87	
Compensation for construction defects....	R87-11	500		1-5-87		500	3-16-87	
Rural housing preservation grants.....	R87-12	14,400		1-5-87		14,400	3-16-87	
Soil Conservation Service								
Watershed and flood prevention operations	R87-13	96,000		1-5-87		96,000	3-16-87	
Great Plains conservation program.....	R87-14	8,000		1-5-87		8,000	3-16-87	
Resource conservation and development....	R87-15	5,000		1-5-87		5,000	3-16-87	
Forest Service								
Land acquisition.....	R87-16	49,030		1-5-87		49,030	3-16-87	
DEPARTMENT OF COMMERCE								
Economic Development Administration								
Economic development assistance programs.	R87-17	169,718		1-5-87				
	R87-17A	-50		1-28-87		169,668	3-16-87	
International Trade Administration								
Operations and administration.....	R87-18	11,400		1-5-87		11,400	3-16-87	
National Oceanic and Atmospheric Administration								
Operations, research, and facilities.....	R87-19	58,857		1-5-87		58,857	3-16-87	
National Telecommunications and Information Administration								
Public telecommunications facilities, planning and construction.....	R87-20	19,300		1-5-87		19,300	3-16-87	

Attachment A - Status of Rescissions - Fiscal Year 1987

As of September 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
DEPARTMENT OF DEFENSE - MILITARY								
Procurement								
Procurement of weapons and tracked combat vehicles, Army	R87-21	15,000		1-5-87		15,000	3-16-87	
Other procurement, Navy	R87-22	116,000		1-5-87		116,000	3-16-87	
Military Construction								
Military construction, Air Force	R87-23	2,750		1-5-87		2,750	3-16-87	
DEPARTMENT OF DEFENSE - CIVIL								
Corps of Engineers - Civil								
Construction, general	R87-24	7,715		1-5-87		7,715	3-16-87	
DEPARTMENT OF EDUCATION								
Office of Elementary and Secondary Education								
Compensatory education for the disadvantaged	R87-25	7,500		1-5-87		7,500	3-16-87	
Impact aid	R87-26	17,500		1-5-87		17,500	3-16-87	
Special programs	R87-27	54,980		1-5-87		54,980	3-16-87	
Office of Bilingual Education and Minority Languages Affairs								
Bilingual education	R87-28	45,886		1-5-87		45,886	3-16-87	
Office of Special Education and Rehabilitative Services								
Education for the handicapped	R87-29	288,659		1-5-87		288,659	3-16-87	
Rehabilitation services and handicapped research	R87-30	127,455		1-5-87		127,455	3-16-87	
Office of Vocational and Adult Education								
Vocational and adult education	R87-31	432,319		1-5-87		432,319	3-16-87	
Office of Postsecondary Education								
Student financial assistance	R87-32	1,269,000		1-5-87		1,269,000	3-16-87	
Higher education	R87-33	203,050		1-5-87		203,050	3-16-87	
	R87-33A			1-28-87				
Office of Educational Research and Improvement								
Libraries	R87-34	34,500		1-5-87		34,500	3-16-87	

Attachment A - Status of Rescissions - Fiscal Year 1987

As of September 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
DEPARTMENT OF ENERGY								
Energy Programs								
Energy supply, research and development activities	R87-35	81,800		1-5-87		81,800	3-16-87	
Fossil energy research and development	R87-36	44,464		1-5-87		44,464	3-16-87	
Energy conservation	R87-37	87,433		1-5-87				
	R87-37A	-3500		1-28-87		83,933	3-16-87	
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
Food and Drug Administration								
Buildings and facilities	R87-38	500		1-5-87		500	3-16-87	
Health Resources and Services Administration								
Health resources and services	R87-39	161,210		1-5-87		161,210	3-16-87	
	R87-39A			1-28-87				
Indian health facilities	R87-40	57,100		1-5-87		57,100	3-16-87	
	R87-40A			1-28-87				
National Institutes of Health								
National Library of Medicine	R87-41	5,405		1-5-87		5,405	3-16-87	
Office of the Assistant Secretary of Health								
Public health service management	R87-42	5,000		1-5-87		5,000	3-16-87	
Departmental Management								
Policy research	R87-43	2,200		1-5-87		2,200	3-16-87	
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs								
Annual contributions for assisted housing	R87-44	473,313		1-5-87		473,313	3-16-87	
Housing counseling assistance	R87-45	3,500		1-5-87		3,500	3-16-87	
Community Planning and Development								
Community development grants	R87-46	375,200		1-5-87		375,200	3-16-87	
Urban development action grants	R87-47	237,500		1-5-87		237,500	3-16-87	
Management and Administration								
Salaries and expenses	R87-48	19,042		1-5-87		19,042	3-16-87	

Attachment A - Status of Rescissions - Fiscal Year 1987

As of September 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Management of lands and resources	R87-49	6,500		1-5-87		6,500	3-16-87	
Construction and access	R87-50	1,600		1-5-87		1,600	3-16-87	
Land acquisition	R87-51	2,700		1-5-87		2,700	3-16-87	
Bureau of Mines								
Mines and minerals	R87-52	16,594		1-5-87		16,594	3-16-87	
United States Fish and Wildlife Service								
Resource management	R87-53	20,500		1-5-87		20,500	3-16-87	
	R87-53A			1-28-87				
Construction	R87-54	23,200		1-5-87		23,200	3-16-87	
Land acquisition	R87-55	26,762		1-5-87		26,762	3-16-87	
National Park Service								
Operation of the national park system	R87-56	7,950		1-5-87		7,950	3-16-87	
Construction	R87-57	58,981		1-5-87		58,981	3-16-87	
Land acquisition	R87-58	97,638		1-5-87	30,000	97,638	3-16-87	P.L. 100-71
Historic preservation fund	R87-59	15,000		1-5-87		15,000	3-16-87	
Bureau of Indian Affairs								
Construction	R87-60	22,811		1-5-87		22,811	3-16-87	
Territorial and International Affairs								
Administration of territories	R87-61	2,500		1-5-87		2,500	3-16-87	
DEPARTMENT OF JUSTICE								
Immigration and Naturalization Service								
Salaries and expenses	R87-62	24,598		1-5-87		24,598	3-16-87	
DEPARTMENT OF LABOR								
Employment and Training Administration								
Training and employment services	R87-63	332,000		1-5-87		332,000	3-16-87	

Attachment A - Status of Rescissions - Fiscal Year 1987

As of September 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
DEPARTMENT OF THE TREASURY								
Federal Law Enforcement Training Center Salaries and expenses.....	R87-64	8,450		1-5-87		8,450	3-16-87	
Bureau of Alcohol, Tobacco, and Firearms Salaries and expenses.....	R87-65	15,000		1-5-87		15,000	3-16-87	
United States Customs Service Salaries and expenses.....	R87-66	38,945		1-5-87		38,945	3-16-87	
ENVIRONMENTAL PROTECTION AGENCY								
Abatement, control, and compliance.....	R87-67	47,500		1-5-87		47,500	3-16-87	
Buildings and facilities.....	R87-68	2,500		1-5-87		2,500	3-16-87	
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION								
Research and development.....	R87-69	25,796		1-5-87		25,796	3-16-87	
VETERANS ADMINISTRATION								
Medical care.....	R87-70	75,000		1-5-87		(See Note Below)		
OTHER INDEPENDENT AGENCIES								
Appalachian Regional Commission Appalachian regional development programs	R87-71	31,059		1-5-87		31,059	3-16-87	
National Endowment for the Humanities National capital arts and cultural affairs	R87-72	4,000		1-5-87		4,000	3-16-87	
Selective Service System Salaries and expenses.....	R87-73	409		1-5-87		409	3-17-87	
Total, rescissions.....		5,835,751	0		36,000	5,760,751		

NOTE. - The $75 million proposed for rescission in Rescission Proposal No. R87-70 was never withheld from obligation. Therefore, there was no need to release the funds on March 16.

Attachment B - Status of Deferrals - Fiscal Year 1987

As of September 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 9-1-87
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Foreign military sales credit	D87-22	4,040,441		12-15-86	3,849,500				
Economic support fund	D87-1	95,000		9-26-86					190,941
	D87-1A		2,351,470	12-15-86	2,057,665			1,000	389,805
Military assistance	D87-23	847,000		12-15-86	720,797				126,203
International military education and training	D87-24	2,000		12-15-86	2,000				0
Agency for International Development									
Functional development assistance	D87-32	2,278		1-28-87	2,278				0
International disaster assistance	D87-25	57,000		12-15-86	55,180				1,820
Special Assistance for Central America									
Assistance for the Nicaraguan Democratic Resistance	D87-26	60,000		12-15-86	60,000				0
Promotion of stability and security in Central America	D87-27	1,000		12-15-86					1,000
DEPARTMENT OF AGRICULTURE									
Commodity Credit Corporation									
Temporary emergency food assistance	D87-33	28,559		1-28-87		28,559	P.L. 100-6		0
Rural Electrification Administration									
Reimbursement to the Rural electrification and telephone and revolving fund for interest subsidies and losses	D87-34	20,000		1-28-87	20,000				0
Forest Service									
State and private forestry	D87-35	797		1-28-87		797	P.L. 100-71		0
Land acquisition	D87-36	27,070		1-28-87		27,070	P.L. 100-71		0
Expenses, brush disposal	D87-2	111,202		9-26-86					
	D87-2A		1,534	3-4-87					112,736
Timber roads, purchaser election	D87-37	11,900		1-28-87		11,900	P.L. 100-71		0
Timber salvage sales	D87-3	29,731		9-26-86	6,113			3	23,621
Cooperative work	D87-4	526,938		9-26-86					
	D87-4A		8,336	3-4-87					
	D87-4B		516	8-27-87					535,791

Attachment B - Status of Deferrals - Fiscal Year 1987

As of September 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 9-1-87
Forest Service (continued)									
Gifts, donations, and bequests for forest and rangeland research.....	D87-5	200		9-26-86	96				104
DEPARTMENT OF DEFENSE - MILITARY									
Military Construction									
Military construction, Defense.....	D87-6	2,350		9-26-86					
	D87-6A		1,316,152	12-15-86	1,281,553				36,949
Family Housing									
Family housing, Defense.....	D87-7	76,943		9-26-86					
	D87-7A		190,022	12-15-86	210,650				56,315
DEPARTMENT OF DEFENSE - CIVIL									
Soldiers' and Airmen's Home									
Capital outlays.....	D87-38	1,132		1-28-87	1,132				0
Wildlife Conservation, Military Reservations									
Wildlife conservation.....	D87-8	1,065		9-26-86					
	D87-8A		25	1-5-87					
	D87-8B		46	3-4-87	316				820
DEPARTMENT OF ENERGY									
Power Marketing Administration									
Alaska Power Administration, Operation and maintenance.....	D87-9	165		9-26-86					165
Southwestern Power Administration,									
Operation and maintenance.....	D87-10	7,554		9-26-86					
	D87-10A		6,106	1-5-87					13,660
Western Area Power Administration, Construction, rehabilitation, operation and maintenance.....	D87-29	4,485		1-5-87					4,485
Departmental Administration									
Departmental administration.....	D87-30	24,182		1-5-87					24,182

Attachment B - Status of Deferrals - Fiscal Year 1987

As of September 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 9-1-87
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Health Resources and Services Administration									
Indian catastrophic health emergency fund..	D87-28	10,000		12-15-86	10,000				0
Centers for Disease Control									
Disease control, research, and training....	D87-39	2,428		1-28-87	2,428				0
Alcohol, Drug Abuse, and Mental Health Administration									
Alcohol, drug abuse, and mental health...	D87-40	10,000		1-28-87	10,000				0
Office of Assistant Secretary for Health									
Scientific activities overseas (special foreign currency program).....	D87-11	2,900		9-26-86					2,900
Social Security Administration									
Limitation on administrative expenses (construction).....	D87-12	7,073		9-26-86					
	D87-12A		89	1-28-87	12				7,151
Limitation on administrative expenses (information technology systems).....	D87-57	134,437		3-4-87					
	D87-57A		36,482	8-27-87					170,919
DEPARTMENT OF THE INTERIOR									
Bureau of Land Management									
Payments for proceeds, sale of Mineral Leasing Act of 1920, Section 40(d).....	D87-31	49		1-5-87					49
DEPARTMENT OF JUSTICE									
Office of Justice Programs									
Crime victims fund.....	D87-13	70,000		9-26-86					70,000
DEPARTMENT OF LABOR									
Employment Standards Administration									
Salaries and expenses.....	D87-41	9,659		1-28-8/	9,659				0

Attachment B - Status of Deferrals - Fiscal Year 1987

As of September 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 9-1-87
DEPARTMENT OF STATE									
Bureau for Refugee Programs									
United States emergency refugee and migration assistance fund, executive.....	D87-14	6,100		9-26-86					
	D87-14A		14,000	1-5-87	8,462				11,638
Other									
Assistance for implementation of a Contadora agreement.....	D87-15	2,000		9-26-86	2,000				0
DEPARTMENT OF TRANSPORTATION									
Federal Railroad Administration									
Rail service assistance.....	D87-42	462		1-28-87		462	P.L. 100-71		0
Railroad safety.....	D87-43	1,101		1-28-87	1,101				0
Conrail labor protection.....	D87-44	646		1-28-87	646				0
Northeast corridor improvement program.....	D87-45	16,962		1-28-87		16,962	P.L. 100-71		0
Conrail commuter transition assistance.....	D87-46	10,000		1-28-87		10,000	P.L. 100-71		0
Urban Mass Transportation Administration									
Research, training and human resources.....	D87-47	4,336		1-28-87		4,336	P.L. 100-71		0
Interstate transfer grants - transit.....	D87-48	51,800		1-28-87		51,800	P.L. 100-71		0
Federal Aviation Administration									
Operation and maintenance, Metropolitan Washington Airports.....	D87-49	12,214		1-28-87	12,214				0
Facilities and equipment (Airport and airway trust fund).....	D87-16	803,877		9-26-86					
	D87-16A		295,611	12-15-86	19,996				1,079,492
Coast Guard									
Research, development, test, and evaluation.....	D87-50	5,000		1-28-87	5,000				0
Offshore oil pollution compensation fund...	D87-51	2,154		1-28-87	2,154				0
Deepwater port liability fund.....	D87-52	5,176		1-28-87	5,176				0
Office of the Secretary									
Payments to air carriers.....	D87-53	10,748		1-28-87	10,748				0

As of September 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 9-1-87
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing									
Local government fiscal assistance trust fund	D87-17	74,149		9-26-86	71,221			5	2,933
Local government fiscal assistance trust fund	D87-21	5,981		9-26-86	6,704			723	0
ENVIRONMENTAL PROTECTION AGENCY									
Research and development	D87-54	11,000		1-28-87		11,000	P.L. 100-71		0
Abatement, control, and compliance	D87-55	11,400		1-28-87		11,400	P.L. 100-71		0
OTHER INDEPENDENT AGENCIES									
Commission on the Ukraine Famine Salaries and expenses	D87-18	100		9-26-86	100				0
Office of the Federal Inspector for the Alaska Natural Gas Transportation System, Salaries and expenses	D87-19	411		9-26-86	411				0
Pennsylvania Avenue Development Corporation Land acquisition and development fund	D87-20	11,873		9-26-86					11,873
United States Railway Association Administrative expenses	D87-56	1,155		1-28-87	1,155				0
TOTAL, DEFERRALS		7,274,185	4,220,390		8,446,467	174,286		1,731	2,875,553

Note: All of the above amounts represent budget authority except the Local Government Fiscal Assistance Trust Fund (D87-21) of outlays only.

[FR Doc. 87-21521 Filed 9-16-87; 8:45 am]
BILLING CODE 3110-01-C

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on—

Wednesday, October 7, 1987
Wednesday, October 14, 1987
Wednesday, October 21, 1987
Wednesday, October 28, 1987

These meetings will start at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives from five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives from five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnal Management.

These scheduled meeting will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnal Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations, and related activities. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chairman on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contracting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street NW., Washington, DC 20415 (202) 632–9710.

Thomas E. Anfinson,

Chairman, Federal Prevailing Rate Advisory Committee.

September 11, 1987.

[FR Doc. 87–21404 Filed 9–16–87; 8:45 am]

BILLING CODE 6325–01–M

RAILROAD ACCOUNTING PRINCIPLES BOARD

Establishment of Cost Accounting Principles for Rail Carriers

AGENCY: Railroad Accounting Principles Board.

ACTION: Notice of issuance of final report.

SUMMARY: The Railroad Accounting Principles Board issued on September 1, 1987, its final report. The 2-volume report contains eight principles addressing railroad accounting and cost information issues relevant to regulatory proceedings in which cost determinations are used in Interstate Commerce Commission (ICC) decisions. The principles are to govern the determination of economically accurate railroad costs directly and indirectly associated with particular movements of goods. The report also contains recommendations to the ICC for implementing the principles and addressing related matters.

TO RECEIVE THIS REPORT CONTACT: Superintendent of Documents, U.S. General Accounting Office, P.O. Box 6015, Gaithersburg, Maryland 20877, Telephone (202) 275–6241.

SUPPLEMENTARY INFORMATION: The Railroad Accounting Principles Board (RAPB) has established principles governing the determination of economically accurate railroad costs directly and indirectly associated with particular movement of goods as required by 49 U.S.C. 11162, and issued its report as provided by 49 U.S.C. 11167. The report, dated September 1, 1987, is comprised of two volumes.

Volume 1 contains in its first chapter eight principles on (1) causality, (2) homogeneity, (3) practicality, (4) data integrity, (5) entity, (6) cost of capital, (7) asset valuation and related expense, and (8) productivity. The second chapter discusses the effect of the eight principles on specific regulatory proceedings and general-purpose costing systems. The third chapter discusses the effect of implementing the principles on existing practices of the Interstate Commerce Commission (ICC) and contains recommendations to the ICC for implementing the principles and addressing related matters.

Volume 2 is a detailed report with a separate chapter on each of the eight principles and the six specific regulatory applications most effected by the principles, and four chapters on matters related to general-purpose costing systems. These chapters contain detailed discussions of the principles, their use in specific regulatory applications, the rationale for the principles and recommendations, and alternative proposals considered by the RAPB.

The report is the culmination of a two and one-half year process during which substantial public input was obtained from railroads, shippers, and other parties. The RAPB invited and received comments on the issues the RAPB should address (50 FR 7153, February 20, 1985), a discussion memorandum presenting issues and questions relevant to regulatory measurement and costing principles, among other things (51 FR 4051, January 31, 1986), and an exposure draft containing proposed principles and recommendations (52 FR 5361, February 20, 1987). The RAPB also conducted a public hearing on April 30, 1987 at which representatives of railroads, shippers, and others testified.

With the establishment of cost accounting principles by the RAPB under 49 U.S.C. 11162, the ICC is required by 49 U.S.C. 11163 to promptly implement the principles through the rulemaking process, which will afford interested parties further opportunity to participate. Because the ICC is ultimately responsible for cost principles to be used in regulatory proceedings, it must review the RAPB's principles in light of rulemaking comments from interested parties and reasonably explain the rules it adopts. However, as part of the rulemaking process, the ICC must accord substantial deference to the RAPB's principles and to the rationale underlying those principles.

The RAPB's report is being mailed directly to parties who are known to the RAPB to be interested in its contents. Other parties will receive the report upon request.

Dated: September 1, 1987.

Charles A. Bowsher,

Chairman, Railroad Accounting Pirnciples Board.

[FR Doc. 87-21524 Filed 9-16-87; 8:45 am]

BILLING CODE 1610-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request, Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, 450 Fifth Street, NW., Washington, DC 20549.

Extension

Rule 17e-1, File No. 270.224

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 17e-1 under the Investment Company Act of 1940. Rule 17e-1 is designed to ensure that brokers affiliated with investment companies receive no greater compensation than would be received from the investment companies in arm's length transactions. The rule requires approximately 10 hours of recordkeeping per investment company annually.

Comments should be submitted to OMB Desk Officer: Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503.

Jonathan G. Katz,

Secretary.

September 10, 1987.

[FR Doc. 87-21503 Filed 9-16-87; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Inc.

September 11, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Amax Gold, Inc.
Common Stock, $.01 Par Value (File No. 7-0474)

ABM Gold Corp.
Common Stock, No Par Value (File No. 7-0475)

Carnival Cruise Lines
Common Stock, $.01 Par Value (File No. 7-0476)

Goldome
Common Stock, $1.00 Par Value (File No. 7-0477)

Heritage Entertainment Inc.
Common Stock, $.01 Par Value (File No. 7-0478)

Lazy Boy Chair Co.
Common Stock, $1.00 Par Value (File No. 7-0479)

Malaysia Fund
Common Stock, $.01 Par Value (File No. 7-0480)

Neiman Marcus Group, Inc. (The)
Common Stock, $.01 Par Value (File No. 7-0481)

Sprague Technologies
Common Stock, $1.00 Par Value (File No. 7-0482)

Liberty All Star Equity Fund
Shares of Beneficial Interest (File No. 7-0483)

Vons Companies
Common Stock, $.10 Par Value (File No. 7-0484)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 2, 1987, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-21452 Filed 9-16-87; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Inc.

September 11, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

American Fructose
Class A, Common Stock, $.10 Par Value (File No. 7-0456)

Calmat Co.
Common Stock, $1.00 Par Value (File No. 7-0457)

Cincinnati Bell, Inc.
Common Stock, $12.50 Par Value (File No. 7-0458)

Fay's Drug Co., Inc.
Common Stock, $.10 Par Value (File No. 7-0459)

Fairfield Communities, Inc.
Common Stock, $.10 Par Value (File No. 7-0460)

General Development Corp.
Common Stock, $1.00 Par Value (File No. 7-0461)

Hovnanian Enterprises, Inc.
Common Stock, $.01 Par Value (File No. 7-0462)

Hormel (Geo. A.) & Co.
Common Stock, $0.4688 Par Value (File No. 7-0463)

I.C.H. Corp.
Common Stock, $1.00 Par Value (File No. 7-0464)

Kay Jewlers, Inc.
Common Stock, $1.00 Par Value (File No. 7-0465)

Kellwood Co.
Common Stock, No Par Value (File No. 7-0466)

Lawter International, Inc.
Common Stock, $1.00 Par Value (File No. 7-0467)

Musingwear, Inc.
Common Stock, $1.00 Par Value (File No. 7-0468)

Pico Products, Inc.
Common Stock, $.01 Par Value (File No. 7-0469)

Price Communications Corp.
Common Stock, $.01 Par Value (File No. 7-0470)

Telephone Data Systems, Inc.
Common Stock, $1.00 Par Value (File No. 7-0471)

Varco International, Inc.
Capital Stock, No Par Value (File No. 7-0472)

Weiss Markets, Inc.
Common Stock, No Par Value (File No. 7-0473)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 2, 1987, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-21453 Filed 9-16-87; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

September 11, 1987.

The above named additional securities has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Environmental Treatment & Technologies Corp.
Common Stock, $.10 Par Value (File No. 7-0451)

Flexi Van Corporation
Common Stock, $.01 Par Value (File No. 7-0452)

Hormel (Geo. A.), & Co.
Common Stock, $.2344 Par Value (File No. 7-0453)

Ford Motor Credit Company
Currency Exchange Warrants, Expiring June 15, 1992 (File No. 7-0454)

General Electric Credit Corp.
Currency Exchange Warrants, Expiring June 15, 1992 (File No. 7-0455)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 2, 1987 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-21454 Filed 9-16-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24917; File No. SR-NYSE-87-30]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by New York Stock Exchange, Inc.; Auxiliary Opening Procedures for Orders Relating to Expiring Stock Index Contracts

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 10, 1987, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change adds auxiliary opening procedures for assisting in handling the order flow associated with the concurrent expiration of stock index futures, stock index options and options on stock index futures (collectively, "index contracts") on September 18, 1987. It specifies procedures identical to those used on June 19, 1987 (SR-NYSE-87-17; Release No. 34-24596 (June 16, 1987)). Only the dates and the list of pilot stocks (due to one name change and the substitution of one stock as a consequence of changes in trading activity) have changed.

Specifically, the auxiliary procedures provide that stock orders relating to opening-price settling contracts must be received by 9:00 a.m. on September 18. The Exchange will promptly disseminate the size of substantial market order imbalances (50,000 shares or more) as at 9:00 in 50 pilot stocks.

The Exchange will make SuperDot available to accept orders at 7:30. The Exchange will also raise the order size eligibility for the Opening Automation Reporting Service ("OARS") to 30,099 shares—in effect, raising SuperDot's pre-opening order size parameters. The procedures confine orders relating to opening-price settling contracts to market orders and require them to be appropriately identified. The procedures also ban "limit-at-the-opening" orders and apply on September 18 the reduced waiting periods for second and subsequent price indications.[1]

The Exchange characterizes the proposed rule change as a Rule of the Board of Directors of the Exchange. The proposed rule change supersedes all Exchange rules and policies inconsistent with it.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. *Purpose.* The purpose of the proposed rule change is to establish procedures to augment the NYSE's regular opening procedures on September 18, 1987. The auxiliary procedures will assist in integrating stock orders relating to expiring contracts into the Exchange's opening procedures in a manner that will assure an efficient market opening in each stock as close to 9:30 a.m. as possible.

The Exchange believes that settling index contracts based upon the opening prices of the constituent stocks, and

[1] The reduced waiting periods recently were approved on a permanent basis. Securities Exchange Act Release No. 24880 (September 4, 1987), 52 FR ——— (approving File No. SR-NYSE-87-14).

thereby permitting use of the Exchange's time-tested opening procedures, provides the best mechanism for handling the accompanying stock volume. The Exchange, the Chicago Mercantile Exchange, Inc. (the "CME") and the New York Futures Exchange, Inc. (the "NYFE") recently altered or added index contracts specifying that settlement pricing will occur based upon the opening prices on expiration Friday (September 18). They also have provided that trading in opening-price settling contracts will cease at the close on the preceding day (Thursday, September 17). The Exchange anticipates that these changes will divert to the opening approximately 75 percent of the stock order flow related to expiring index contracts. The proposed rule change establishes auxiliary procedures to help accommodate the diverted order flow.

The special dissemination of a picture of substantial market order imbalances in the 50 pilot stocks as at 9:00 will provide off-Floor participants with a picture of the unique impact of the index-related orders, and will allow ample opportunity for them to react to it. Because the regular opening procedures will otherwise operate, an off-Floor participant will, as always, be able to obtain a minute-to-minute Floor picture through his Floor broker. Similarly, the pre-opening application of the ITS Plan will be in effect. Moreover, if it becomes evident that a significant change from the September 17 closing price is in the offing, the specialist can, with the approval of a Floor Official, disseminate regular price indications over the tape as needed.

The particular purposes of several of the procedures deserve elaboration.

9:00 Cut-Off. The 9:00 cut-off for entry of stock orders relating to opening-price settling contracts assures that the upper limit of the order flow created by unwinding index-related positions is known at 9:00. The specialists can retrieve the orders in OARS at 9:00 and combine them with the manual orders, creating a complete picture of all the orders. If the picture shows an imbalance of 50,000 shares or more, he will notify off-Floor participants of the imbalance within the first several minutes after 9:00. This allows a half hour or more to react.

Preclusion of Limit-at-the-Opening Orders. Preclusion of limit-at-the-opening orders simplifies the specialist's task in opening his market. These orders cannot be entered into the electronic display book. Consequently, their acceptance would complicate the specialist's task by requiring him to keep a separate, manual tally. Customers are free to enter regular limit orders.

Applicability of Revised Price Indications Waiting Period. SR-NYSE-87-14, noted above, describes the purpose of reducing the waiting period following second and subsequent price indications.

2. *Statutory Basis.* The basis under the 1934 Act for the proposed rule change is section 6(b)(5), which requires that rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the 1934 Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange created an ad hoc Expiration Procedures Committee consisting of its Floor Directors, other representatives from the Floor, upstairs traders and institutional brokers. The proposed rule change reflects the consensus reached by the committee.

The Exchange received no written comments following the June expiration concerning the procedures.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the 1934 Act. Confirmation to the industry of the Exchange's intention to repeat the June 19 procedures should occur as soon as possible to permit investors and firms to plan accordingly. Moreover, the procedures contain no substantive changes from the June 19 procedures, on which there has been ample opportunity for comment. Accordingly, the Exchange seeks action by the Commission in time to permit notification of interested parties well in advance of the September 18 expiration.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of Section 6 and the rules and regulations thereunder. The Commission believes that basing the settlement of index products on opening, as opposed to closing prices on September 18 may help to accomodate index-related share volume. The proposed auxiliary procedures are intended to ensure that the exchange may efficiently process sizeable order flow at the open. The Commission believes that these procedures should work to reduce order imbalances at the open, and thus dampen potential volatility. In this regard, the procedures worked well during the June expiration and the September expiration should provide the Commission with another opportunity to assess whether these procedures are sufficient in dampening expiration volatility at the opening, or whether additional measures are necessary.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof because the proposed rule change will enable the Exchange to quickly implement and notify market participants about procedures that it believes will appropriately address any index-related heightened share volume at the open on September 18.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 8, 1987.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: September 11, 1987.

[FR Doc. 87-21504 Filed 9-16-87; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-8356]

Issuer Delisting; Application To Withdraw From Listing and Registration; Del-Val Financial Corp. (Common Stock, Par Value $1.00)

September 11, 1987.

Del-Val Financial Corporation ("Company"), has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("Amex"). The Company's common stock was recently listed and registered on the New York Stock Exchange, Inc. ("NYSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

In making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its common stock on the NYSE and the Amex. The Company does not see any particular advantage in dual trading of its stock and believes that dual listing would fragment the market for its common stock.

Any interested person may, on or before October 2, 1987, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-21455 Filed 9-16-87; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-17391]

Application and Opportunity for Hearing; Southern Natural Gas Co.

September 14, 1987.

Notice Is Hereby Given That Southern Natural Gas Company (a Delaware Corporation) ("Southern") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeships of Manufacturers Hanover Trust Company ("Manufacturers") under the indenture referred to in paragraph 1 below, which is qualified under the Act, and under the trust indenture referred to in paragraph 2 below, which has not been qualified under the Act, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Manufacturers from acting as Trustee under either of such indentures.

Section 310(b) of the Act provides, *inter alia*, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in such Section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, with certain exceptions, that a trustee is deemed to have a conflicting interest if it is acting as trustee under another indenture of the same obligor. However, pursuant to clause (ii) of such subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securities of such obligor are outstanding, if the issuer shall have sustained the burden of proving on application to the Commission, and after opportunity for hearing thereon, that trusteeships under the indentures are not so likely to involve a material conflict of interest as to make it necessary to disqualify such trustee from acting as trustee under any such indentures.

Southern alleges that:

1. On March 20, 1987, Southern filed with the Commission a Registration Statement (File No. 33-12784) covering $100,000,000 aggregate principal amount of debentures and an indenture, dated as of June 1, 1987, between Southern and Manufacturers, as Trustee (the "Southern Indenture"), pursuant to which Southern may issue from time to time in one or more series its unsecured debentures, notes or other evidence of indebtedness. The Registration Statement was declared effective on June 8, 1987. On July 31, 1987, Southern filed with the Commission a Registration Statement (File No. 33-16190) covering up to $200,000,000 aggregate principal amount of debt securities which it may issue from time to time, in one or more series, pursuant to the Southern Indenture.

2. Bear Creek Capital Corporation ("Bear Creek Capital"), a Delaware corporation formed and wholly-owned by Bear Creek Storage Company ("Bear Creek Storage"), a Louisiana partnership composed of Southern Gas Storage Company, a Delaware corporation and a wholly-owned subsidiary of Southern, and Tennessee Storage Company, a Delaware Corporation, has entered into a Trust Indenture, dated as of September 15, 1981 (the "Bear Creek Capital Indenture"), with Manufacturers, as Trustee, and T. C. Crane, as Co-Trustee, pursuant to which Bear Creek Capital issued an aggregate principal amount of $135,000,000 of its 9⅞% Secured Notes, Series A due November 1, 2000 and $30,000,000 of its 14⅞% Secured Notes, Series B due November 1, 2000 (collectively, the "Notes"). Inasmuch as the Notes were offered and sold in a private placement to a single institutional investor in reliance upon the representations of the purchaser that it was purchasing the Notes for investment and not with a view for resale, the Notes were not registered under the Securities Act of 1933, as amended, and the Bear Creek Capital Indenture was not qualified under the Trust Indenture Act of 1939. The notes are secured, *inter alia*, by an assignment to the Trustee by Bear Creek Capital of its rights under a Service Agreement, dated June 1, 1981, between Bear Creek Storage and Southern (the "Service Agreement"), assigned by Bear Creek Storage to Bear Creek Capital pursuant to a Pledge and Assignment of Rights Under Service Agreement, dated as of September 15, 1981, between Bear Creek Capital and Bear Creek Storage, consented to by Southern in a Consent and Agreement to Pledge and Assignment, dated as of September 15, 1981, executed by Southern and Tennessee Gas Pipeline Company (the "Consent"). The Consent provides that the obligation of Southern to pay the charges due under the Service Agreement is absolute and unconditional. The obligations of Southern under the Service Agreement and under the Consent are unsecured. Such obligations rank equally and on a par with the obligations of Southern in respect of its Securities under the Southern Indenture.

3. The Southern Indenture contains the provisions required by section 310(b) of the Act.

Southern has waived notice of hearing, and waives hearing, in connection with the matter referred to herein.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, File No. 22–17391 which is a public document on file in the offices of the Commission at the Public Reference Room, Judiciary Plaza, 450 Fifth Street, NW., Washington, DC.

Notice is Further Given that any interested persons may, not later than October 5, 1987, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–21505 Filed 9–16–87; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Region IX Advisory Council; Public Meeting; California

The U.S. Small Business Administration Region IX Advisory Council, located in the geographical area of Los Angeles, will hold a public meeting at 9:00 a.m., Thursday October 29, 1987, at the Bank of America Executive Board Room, 555 South Flower Street, Los Angeles, California 90071, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information write or call M. Hawley Smith, District Director, U.S. Small Business Administration, 350 South Figueroa Street, Suite #600, Los Angeles, California 90071, (213) 894–2977.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 10, 1987.

[FR Doc. 87–21396 Filed 9–16–87; 8:45 am]

BILLING CODE 8025–01–M

Region VIII Advisory Council; Public Meeting; North Dakota

The Small Business Administration Revion VIII Advisory Council, located in the geographical area of Fargo, North Dakota, will hold a public meeting at 9:30 a.m., Wednesday, October 14, 1987, at the Town House Motor Inn, Bismarck, North Dakota, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration and others attending.

For further information write or call James L. Stai, District Director, U.S. Small Business Administration, 657–2nd Avenue North, Room 218, Fargo, North Dakota 58102, (701) 237–5771, extension 5131.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 10, 1987.

[FR Doc. 87–21397 Filed 9–16–87; 8:45 am]

BILLING CODE 8025–01–M

Region X Advisory Council; Public Meeting; Oregon

The Small Business Administration Region X Advisory Council, located in the geographical area of Portland, Oregon, will hold a public meeting at 10:00 a.m. on Tuesday, September 29, 1987, in the Oak Room, Linfield Commons, Linfield College, Linfield Avenue, McMinnville, Oregon to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Mr. John L. Gilman, District Director, U.S. Small Business Administration, 1220 SW Third Avenue, Room 676, Portland, Oregon 97204–2882, (503) 294–5221.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 10, 1987.

[FR Doc. 87–21398 Filed 9–16–87; 8:45 am]

BILLING CODE 8025–01–M

Region VIII Advisory Council; Public Meeting; South Dakota

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Sioux Falls, South Dakota, will hold a public meeting on Thursday, October 15, 1987, from 9:00 a.m. to 4:30 p.m., at the Howard Johnson Motel, North Dakota Room, 3300 West Russell, Sioux Falls, South Dakota 57107, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Chester B. Leedom, District Director, U.S. Small Business Administration, Suite 101, Security Building, 101 South Main Avenue, Sioux Falls, South Dakota 57102, (605) 336–2980, Ext. 231.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 10, 1987.

[FR Doc. 87–21399 Filed 9–16–87; 8:45 am]

BILLING CODE 8025–01–M

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1980, as Amended by Pub. L. 99–591; Information Collection Under Review by the Office of Management and Budget (OMB)

AGENCY: Tennessee Valley Authority.

ACTION: Information Collection Under Review by the Office of Management and Budget (OMB).

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), as amended by Pub. L. 99–591.

Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Desk Officer for the Tennessee Valley Authority, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; Telephone: (202) 395–7313.

Agency Clearance Officer: Mark R. Winter, Tennessee Valley Authority, 100 Lupton Building, Chattanooga, TN 37401; (615) 751–2523

Type of Request: Regular submission

Title of Information Collection: Employment Applications

Frequency of Use: On occasion

Type of Affected Public: Individuals

Small Businesses or Organizations Affected: No

Federal Budget Functional Category Code: 999

Estimated Number of Annual Responses: 105,000

Estimated Total Annual Burden Hours: 105,000.

Need For and Use of Information: Applications for employment are needed to collect information on qualifications, suitability for employment and eligibility for veterans preference. The information is used to make comparative appraisals and to assist in selections. The affected public consists of individuals who apply for TVA employment.

John W. Thompson,

Manager of Corporate Services, Senior Agency Official.

[FR Doc. 87-21515 Filed 9-16-87; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 87-9-26]

Fitness Determination of Richmor Aviation, Inc., d/b/a Liberty Air

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 87-9-26, Order on Reconsideration.

SUMMARY: The Department of Transportation is proposing to find that Richmor Aviation, Inc., d/b/a Liberty Air is fit, willing, and able to provide commuter air service under section 419(c)(2) of the Federal Aviation Act.

Responses.

All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, P-56, U.S. Department of Transportation, 400 7th Street SW., Room 6420, Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than September 21, 1987.

FOR FURTHER INFORMATION CONTACT: Mary Catherine Terry, Air Carrier Fitness Division, Department of Transportation, 400 7th Street SW., Washington, DC 20590, (202) 366-2343.

Dated: September 14, 1987.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 87-21519 Filed 9-16-87; 8:45 am]

BILLING CODE 4910-62-M

Office of Commercial Space Transportation

[Docket No. 45133; Notice No. 87-18]

Commercial Space Transportation; Expendable Launch Vehicle Program; Environmental Assessment

AGENCY: Office of Commercial Space Transportation, DOT.

ACTION: DOT notice of availability of environmental assessment for commercial space licensing of activities at Vandenberg Air Force Base.

SUMMARY: DOT is issuing this notice to advise the public of availability of a Programmatic Environmental Assessment for Commercial Expendable Launch Vehicle Programs at Vandenberg Air Force Base, California.

SUPPLEMENTARY INFORMATION: In February 1986, the Office published the Programmatic Environmental Assessment for Commercial Expendable Launch Vehicle Programs (51 FR (6780) February 26, 1986). The Office has completed an environmental assessment of the commercial space transportation program at Vandenberg Air Force Base as supplemental information to the February 1986 assessment. DOT licenses commercial space launches from the National Ranges, one of which is Vandenberg Air Force Base. This programmatic assessment addresses the impact of commercial launches from Vandenberg Air Force Base, California. The assessment is available for public inspection and the public is invited to comment on it. The assessment and any comments received may be inspected as follows: (1) Documentary Service Division, Attention: Docket Section/C-55, Room 4107, Docket Number 45133, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and (2) Air Force Civil Engineer, Western Region/ROV, Room 1316, 630 Sansome Street, San Francisco, CA 94111, from 9:00 a.m. to 3:00 p.m. local time, Monday through Friday except Federal holidays. Copies of the assessment may be requested from (1) Office of Commercial Transportation, S-50, 400 Seventh Street, SW., Washington, DC 20590 and (2) Air Force Civil Engineer, Western Region/ROV, Room 1316, 630 Sansome Street, San Francisco, CA 94111. Comments should be sent in triplicate and will be accepted until October 16, 1987. Comments should be sent to Documentary Services Division, Attention Docket Section/C-55, Department of Transportation, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Norman Bowles, Associate Director for Licensing Programs, Office of Commercial Space Transportation, (202) 366-2929 or Gerald Musarra, Office of the General Counsel (202) 366-9305, Department of Transportation, Washington, DC 20590.

Dated at Washington, DC, September 10, 1987.

Courtney A. Stadd,

Director, Commercial Space Transportation.

[FR Doc. 87-21326 Filed 9-16-87; 8:45 am]

BILLING CODE 4910-62-M

Federal Highway Administration

Environmental Impact Statement; Maricopa County, AZ

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Maricopa County, Arizona.

FOR FURTHER INFORMATION CONTACT: David Bender, District Engineer, Federal Highway Administration, 234 North Central Ave., Suite 330, Phoenix, AZ 85004, Telephone: (602) 261-3646.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Arizona Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to improve Grand Avenue in Maricopa County, Arizona. The proposed improvement would involve the reconstruction of the existing route along a corridor from its present crossing of the Beardsley Canal northwest of Sun City West to Van Buren Street and Seventh Avenue near downtown Phoenix, a distance of about 26 miles. Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand.

Alternatives under consideration include: (1) Taking no action; (2) a partially controlled access expressway; (3) a fully controlled access expressway; and (4) an improved arterial concept. The various build alternatives include design variations of grade, alignment and interchange layouts.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies and to private organizations and citizens who have previously expressed interest in this proposal. A series of public meetings will be held in Phoenix, Glendale, Peoria, Sun City and Sun City West between September 1987

and December 1988. In addition, one or more public hearings will be held. Public notice will be given of the time and place of the meetings and hearings. The draft EIS will be available for public and agency review and comment. No formal scoping meeting is planned at this time because extensive interagency coordination has already been initiated.

To insure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal Programs and activities apply to this program.

Issued on: September 9, 1987.

David E. Bender,

District Engineer, Phoenix, Arizona.

[FR Doc. 87-21448 Filed 9-16-87; 8:45 am]

BILLING CODE 4910-22-M

Research and Special Programs Administration

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal application are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" donote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW. Washington, DC.

Application number	Applicant	Renewal of exemption
2913-X	U.S. Department of Energy, Washington, DC.	2913
4354-X	Pennwalt Corporation, Buffalo, NY.	4354
4453-X	Woodard Explosives, Inc., Albuquerque, NM.	4453
4453-X	Thermex Energy Corporation, Dallas, TX.	4453
4661-X	Foote Mineral Company, Exton, PA.	4661
4932-X	Federal Laboratories, Inc., Saltsburg, PA.	4932
5206-X	Thermex Energy Corporation, Dallas, TX.	5206
6122-X	Pennwalt Corporation, Buffalo, NY.	6122
6452-X	Pennwalt Corporation, Buffalo, NY.	6452
6657-X	Liquid Air Corporation, Walnut Creek, CA.	6657
6702-X	Seradyn, Inc., Indianapolis, IN.	6702
6816-X	McDonnell Douglas Astronautics Company, Saint Louis, MO.	6816
7011-X	Russell-Stanley Corporation, Red Bank, NJ (see footnote 1).	7011
7052-X	Halliburton Services, Duncan, OK.	7052
7052-X	Duracell, Inc., Bethel, CT.	7052
7052-X	EG&G Environmental Equipment, Cataumet, MA.	7052
7072-X	Container Corporation of America, Wilmington, DE.	7072
7205-X	U.S. Department of Defense, Falls Church, VA.	7205
7235-X	Luxfer USA Limited, Riverside, CA (see footnote 2).	7235
7280-X	U.S. Department of Defense, Falls Church, VA.	7280
7440-X	Revlon Professional Products, Inc., Jacksonville, FL.	7440
7536-X	U.S. Department of Defense, Falls Church, VA.	7536
7594-X	Bromine Compounds, Limited, Beer Sheva, Israel (see footnote 3).	7594
7595-X	American Cyanamid Company, Wayne, NJ.	7595
7607-X	Baker/TSA, Inc., Coraopolis, PA.	7607
7616-X	Union Pacific Railroad Company, Omaha, NE (see footnote 4).	7616
7887-X	Estes Industries, Inc., Penrose, CO.	7887
7887-X	Centuri Engineering Company, Inc., Penrose, CO.	7887
7887-X	Flight Systems, Inc., Raytown, MO.	7887
7887-X	Flight Systems, Inc., Burns Flat, OK.	7887
7887-X	Crown Rocket Technology, Mountlake Terrace, WA.	7887
7887-X	Aero Technology Company, Las Vegas, NV.	7887
7887-X	Model Rectifier Corporation, Edison, NJ.	7887
7943-X	Grow Group, Inc., Montebello, CA.	7943
8180-X	Dow Corning Corporation, Midland, MI.	8180
8194-X	Pennwalt Corporation, Buffalo, NY.	8194
8207-X	Rexnord, Inc., Commerce City, CO.	8207

Application number	Applicant	Renewal of exemption
8230-X	J.T. Baker Chemical Company, Phillipsburg, NJ.	8230
8287-X	Rohm & Haas Company, Philadelphia, PA.	8287
8301-X	Container Corporation of America, Wilmington, DE.	8301
8516-X	Atlas Powder International, Limited, Pearlinston, MS.	8516
8579-X	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE.	8579
8650-X	Ethyl Corporation, Baton Rouge, LA.	8650
8673-X	MarkAir, Inc., Anchorage, AK (see footnote 5).	8673
8706-X	Petro-Steel, Division of Prairie State Equipment, Sioux Falls, SD (see footnote 6).	8706
8716-X	Foote Mineral Company, Exton, PA.	8716
8732-X	Dow Chemical U.S.A., Midland, MI.	8732
8732-X	Delta Distributors, Inc., Longview, TX.	8732
9015-X	Monsanto Company, Saint Louis, MO.	9015
9016-X	Van Leer Verpackunsen GmbH, Hamburg, West Germany.	9016
9066-X	Volvo Cars of North America, Rockleigh, NJ.	9066
9066-X	Porsche Cars North America, Inc., Reno NV.	9066
9066-X	Bayern-Chemie GmbH, Aschau, West Germany.	9066
9070-X	Warner Brothers, Inc., Sunderland, MA.	9070
9082-X	Rhone-Poulenc Ag Company, Research Triangle Park, NC.	9082
9144-X	Cajun Bag & Supply Co., Crowley, LA (see footnote 7).	9144
9169-X	Pacific Smelting Company, Torrance, CA.	9169
9305-X	ARCO Pipe Line Company, Independence, KS (see footnote 8).	9305
9379-X	Kaichem International Corporation, Savannah, GA.	9379
9485-X	Chem-Tech, Limited, Des Moines, IA.	9485
9485-X	Kaw Valley, Inc., Leavenworth, KS.	9485
9490-X	National Refrigerants, Inc., Radnor, PA.	9490
9512-X	Bryson Industrial Services, Inc., Lexington, SC.	9512
9530-X	National Refrigerants, Inc., Radnor, PA.	9530
9536-X	Transway Systems, Inc., Stoney Creek, Ont., Canada.	9536
9552-X	IRECO Incorporated, Salt Lake City, UT.	9552

[1] To authorize additional materials that are approved for shipment in DOT Specification 21C fiber drums.

[2] To authorize 6061-T6 aluminum alloy liners for DOT Specification FRP2 cylinders with service pressure not exceeding 4500 psi.

[3] To authorize railroad as an additional mode of transportation.

[4] To renew and to authorize use of electronic shipping papers in lieu of hard copy shipping papers, hard copy will be sent at a future date, both shipping papers include necessary certifications.

[5] To authorize reinstatement and renewal of exemption.

[6] To amend paragraph 7c to authorize a 10-inch maximum diameter bottom outlet.

[7] To renew and to authorize cargo vessel as additional mode of transportation.

[8] To renew and to authorize a flammable and combustible liquid as additional commodities.

Application number	Applicant	Parties to exemption
4453-P	Mining Services International, Salt Lake City, UT.	4453
5600-P	Athens Corp., Oceanside, CA.	5600
7607-P	NUS Corporation, Tucker, GA.	7607
7887-P	Enertek, Inc., Phoenix, AZ.	7887
8390-P	Olin Hunt Specialty Products, Inc., West Paterson, NJ.	8390
8390-P	Hi Pure Chemicals, Inc., Nazareth, PA.	8390
8390-P	Image Technology, Tempe, AZ.	8390
8451-P	Boeing Military Airplane Company, Wichita, KS.	8451
8451-P	Ford Aerospace & Communications Corporation, Newport Beach, CA.	8451
8451-P	New England Ordnance, Inc., Guild, NH.	8451
8518-P	Pacific Construction & Maintenance, Inc., Ventura, CA.	8518
8554-P	Luckey Trucking, Inc., Streator, IL.	8554
8698-P	Taylor-Wharton, Harsco Corporation, Theodore, AL.	8698
8723-P	ECONEX Incorporated, Wheaton, IL.	8723
8958-P	De La Mare Engineering, Inc., San Fernando, CA.	8958
9066-P	Mercedes-Benz of North America, Inc., Montvale, NJ.	9066
9130-P	Applied Biochemists, Inc., Mequon, WI.	9130
9130-P	Great Lakes Chemical Corporation, El Dorado, AR.	9130
9275-P	Shaklee Corporation, San Francisco, CA.	9275
9302-P	Airplanes, Inc. d.b.a. Cal-West Aviation, Conord, CA.	9302
9549-P	Owen Oil Tools, Inc., Fort Worth, TX.	9549
9681-P	ICI Americas Inc., Bryon, GA.	9681
9742-P	Bromine Compounds Ltd., Beer-Sheva, Israel.	9742
9785-P	Ethyl Corporation, Baton Rouge, LA.	9785

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with section 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on September 11, 1987.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 87-21427 Filed 9-16-87; 8:45 am]

BILLING CODE 4910-60-M

Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Carso vessel, 4—Carso-only aircraft, 5—Passenger-carrying aircraft.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the application are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW. Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9836-N	Marko Foam Products, Inc., Hayward, CA	49 CFR Part 173, Subpart F, 177.839(a), (b), 178.150.	To manufacture, mark and sell a non-DOT specification non-reusable molded expanded polystyrene case similar to the DOT-33A except it incorporates six cavities to contain not more than six 5-pint bottles for shipment of corrosive materials authorized in the DOT Specification 33A. (Mode 1.)
9837-N	Interstate Industries of N.J., Clark, NJ	49 CFR 178.50-19(2), 175.3	To authorize the marking of lot numbers, instead of serial numbers, on DOT Specification 4B cylinders not exceeding 170 cubic inch capacity. (Modes 1, 2, 5.)
9838-N	S. & W. Waste, Inc., South Kearny, NJ	49 CFR 173.154	To authorize shipment of a flammable waste material, classed as a flammable solid, in non-DOT specification steel containers of approximately 20 cubic yard capacity, of the roll-on, roll-off type. (Mode 1.)
9839-N	Vulcan Packaging Ing., Toronto, Ontario, Canda.	49 CFR 178.116-6, 175.3	To manufacture, mark and sell a non-DOT specification, 6-gallon steel drum of 24 gauge steel, which otherwise complies with the DOT Specification 17E drum, for shipment of materials authorized in a DOT Specification 17E drum. (Modes 1, 2, 3, 4.)
9840-N	Kenai Air Alaska, Inc., Kenai, AK	49 CFR 172.101, 175.30, 175.3	To authorize shipment of hydrogen peroxide solution, 35 percent, classed as an oxidizer, in a 55 gallon DOT Specification 34 drum carried in a cargo net suspended from the cargo hook. (Mode 4.)
9841-N	Consani Engineering (Pty) Limited, Elsies River 7480, South Africa.	49 CFR 178.245-1(b), 175.3	To authorize manufacture, mark and sale of non-DOT specification steel portable tanks, similar to DOT Specification 51 steel portable tanks, for shipment of nonrefrigerated liquefied gases. (Modes 1, 2, 3, 4.)
9842-N	Sunbird Airlines, Inc., Murray, KY	49 CFR 172/101, 172.204(c)(3), 173.27, 175.3, 175.30(a)(1), 175.320(b), Part 107, Subpart B Appendix B.	To authorize carriage by cargo-only aircraft those Class A, B and C explosives that are not permitted or that are in quantities greater than prescribed for air shipment. (Mode 4.)
9843-N	Bruin Engineered Parts Inc., Midland, Ontarion, Canada.	49 CFR 178.33a, 175.3	To authorize manufacture, mark and sale of non-DOT specification cylinders, similar to DOT Specification 2Q, for shipment of materials authorized in DOT Specification 2Q cylinders. (Modes 1, 2, 3, 4.)
9844-N	Theodor Fries, Gesellschaft MBH & Co., Sulz, Austria.	49 CFR 173.266(a), 175.3	To authorize shipment of hydrogen peroxide solution, 60% hydrogen peroxide by weight, classed as oxidizer and corrosive material, in a non-DOT specification polyethylene portable tank. (Modes 1, 2, 3, 4.)
9845-N	C-I-L, Inc., North York, Ontario, Canada	49 CFR 173.31	To authorize retesting of tank cars with a 5-5-3-3-3-3-3 year test cycle in lieu of the required 5-5-3-3-3-3-1 year test cycle. (Mode 2.)
9846-N	Flexcon and Systems, Inc., Lafayette, LA	49 CFR 175.154, 173.182, 173.245b	To authorize manufacture, mark and sale of polyethylene-lined woven polypropylene bag for shipment of materials classed as flammable or corrosive solid, or oxidizer. (Modes 1, 2.)
9847-N	FIBA/Mass Oxygen, Westboro, MA	49 CFR 173.34(e), 173.302(c), 175.3	To authorize testing of DOT Specification 3A and 3AA cylinders by means of acoustic emission testing in lieu of hydrostatic testing. (Modes 1, 2, 3, 4.)
9848-N	Hamilton Standard Div., United Technologies Corp., Windsor Locks, CT.	49 CFR 173.302	To authorize shipment of nitrogen, compressed, classed as nonflammable gas, in a non-DOT specification packaging. (Modes 1, 2.)
9849-N	Southern Air Transport, Inc., Miami, FL	49 CFR 172.101, 172.204(d)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B, 175.3.	To authorize carriage by cargo-only aircraft those Class A, B, and C explosives that are not permitted or that are in quantities greater than prescribed for air shipment. (Mode 4.)

This notice of receipt of applications for new exemptions is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on September 11, 1987.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 87-21428 Filed 9-16-87; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: September 10, 1987.

The Department of the Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 2224, Main Treasury Building, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0172
Form Number: 4562
Type of Review: Resubmission
Title: Depreciation and Amortization
Description: Form 4562 is used by taxpayers to claim a deduction for depreciation and/or amortization on their income tax return. The form also contains questions taxpayers are required to answer pertaining to automobiles and other "listed property" (Internal Revenue Code section 280F)

Respondents: Individuals or households, Farms, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations
Estimated Burden: 11,452,715 hours
Clearance Officer: Garrick Shear, (202) 535–4297, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87–21459 Filed 9–16–87; 8:45 am]

BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

Date: September 10, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Alcohol, Tobacco and Firearms

OMB Number: 1512–0216
Form Number: ATF F 54120.17 (702)
Type of Review: Extension
Title: Monthly Report of Wine Cellar Operations
Description: This report is used to monitor winery operations to insure collection of wine tax revenues. It further insures that wine is produced in accordance with the rules established in law and regulations. ATF F 5120.17 provides the raw data for ATF's Monthly Statistical Release on Wine, which is used by both ATF and other federal agencies as well as regulated industry for trend analysis and planning
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 18,044 hours

OMB Number: 1512–0457
Form Number: 5000/5
Type of Review: Revision
Title: ATF Reporting Requirement Letterhead Notice 5000/5—Implementation of Electronic Fund Transfer (Section 27(c)) of the Deficit Reduction Act of 1984, Pub. L. 98–369
Description: Section 27(c) of Pub. L. 98–369 requires large alcohol and tobacco taxpayers (over $5,000,000 annually) to remit taxes by electronic fund transfer. This report is required to identify these taxpayers, since this information is only available from the taxpayer, and not from any other source
Respondents: Businesses or other for-profit
Estimated Burden: 10 hours
Clearance Officer: Robert Masarsky, (202) 566–7077, Bureau of Alcohol, Tobacco and Firearms, Room 7011, 1200 Pennsylvania Avenue NW., Washington, DC 20226
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87–21460 Filed 9–16–87; 8:45 am]

BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

Date: September 10, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0906
Form Number: 8362
Type of Review: Extension
Title: Currency Transaction Report by Casinos
Description: Casinos have to report currency transactions of more than $10,000 within 15 days of the transaction. A casino is defined as one licensed by a State or local government having gross annual gaming revenue in excess of $1,000,000
Respondents: Businesses of other for-profit
Estimated Burden: 19,063 hours
Clearance Officer: Garrick Shear, (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management officer.

[FR Doc. 87–21461 Filed 9–16–87; 8:45 am]

BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

Date: September 11, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Departmental Offices

OMB Number: New
Form Number: None
Type of Review: New Collection
Title: Amendment to the Bank Secrecy Act Regarding Disclosure of Bank Secrecy Act Data
Description: Treasury needs reports of currency transactions exceeding $10,000 at financial institutions to identify persons who may be involved in drug trafficking, tax evasion, or other illegal activity. The information will be made available to Treasury law enforcement agencies, other Federal, state, and local enforcement agencies, and Congressional committees.
Respondents: State or local governments, Federal agencies or employees
Estimated Burden: 90 hours

OMB Number: New
Form Number: None
Type of Review: New Collection
Title: Amendment to the Bank Secrecy Act Instituting an Administrative Ruling System
Description: All financial institutions subject to the reporting and recordkeeping requirements of the Bank Secrecy Act and its regulations may require interpretations of the Act and the regulations. The proposed ruling system will provide a method by which those interpretations will be

available to all financial institutions subject to the Act and regulations

Respondents: Businesses or other for-profit

Estimated Burden: 450 hours

Clearance Officer: Dale A. Morgan, (202) 343–0263, Department of the Treasury, Room 2224, 15th & Pennsylvania Avenue NW., Washington, DC 20220

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87–21462 Filed 9–16–87; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 180
Thursday, September 17, 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 ELECTION COMMISSION

DATE AND TIME: Tuesday, September 22, 1987, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

DATE AND TIME: Thursday, September 24, 1987, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings.
Correction and Approval of Minutes.
Eligibility Report for Candidates to Receive Presidential Primary Matching Funds.
Proposed Final Determination of Federal Election Commission Regarding Application of Gary Hart for Determination of Eligibility to Receive Presidential Primary Matching Funds.
Routine Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202–376–3155.

Marjorie W. Emmons,
Secretary of the Commission.

[FR Doc. 87–21590 Filed 9–15–87; 2:56 pm]
BILLING CODE 6715-01-M

FEDERAL MARITIME COMMISSION

TIME AND DATE: 10:00 a.m., September 23, 1987.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, DC 20573.

STATUS: Closed.

MATTER TO BE CONSIDERED:

1. Docket No. 87–12—In the matter of Maximum Potential Liability in Independent Ocean Freight Forwarder Bonds—Consideration of Replies to Petition For Declaratory Order.

CONTACT PERSON FOR MORE INFORMATION: Tony P. Kominoth, Assistant Secretary, (202) 523–5725.

[FR Doc. 87–21612 Filed 9–15–87; 3:53 pm]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM, COMMITTEE ON EMPLOYEE BENEFITS

TIME AND DATE: 10:30 a.m., Wednesday, September 23, 1987.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. The Committee's agenda will consist of matters relating to: (a) The general administrative policies and procedures of the Retirement Plan, Thrift Plan, Long-Term Disability Income Plan, and Insurance Plan for Employees of the Federal Reserve System; (b) general supervision of the operations of the Plans; (c) the maintenance of proper accounts and accounting procedures in respect to the Plans; (d) the preparation and submission of an annual report on the operations for each of such Plans; (e) the maintenance and staffing of the Office of the Federal Reserve Employee Benefits System; and (f) the arrangement for such legal, actuarial, accounting, administrative, and other services as the Committee deems necessary to carry out the provisions of the Plans. Specific items include: Proposed early retirement program for employees of two Federal Reserve Banks.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: September 15, 1987.
William W. Wiles,
Secretary of the Board.

[FR Doc. 87–21565 Filed 9–15–87; 12:24 pm]
BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, September 9, 1987.

PLACE: Room 532, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Consideration of issue raised by Commission's proposed budget submission to OMB.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Affairs: (202) 326–2179, Recorded Message: (202) 326–2711.

Emily H. Rock,
Secretary.

[FR Doc. 87–21597 Filed 9–15–87; 2:56 pm]
BILLING CODE 6750-01-M

Corrections

Federal Register
Vol. 52, No. 180
Thursday, September 17, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF EDUCATION

Notice Inviting Public Comment on the Condition of American Education

Correction

In notice document 87-20594 appearing on page 33617 in the issue of Friday, September 4, 1987, make the following correction:

In the third column, under **FOR FURTHER INFORMATION CONTACT**, in the fourth line, "537-6651" should read "357-6651".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 75N-0184; DESI 10837]

T.C.M.-200 and -400 Tablets; Trihexamate; Drugs for Human Use; Drug Efficacy Study Implementation; Withdrawal of Approval

Correction

In notice document 87-19749 beginning on page 32608 in the issue of Friday, August 28, 1987, make the following correction:

On page 32609, in the first column, under **SUPPLEMENTARY INFORMATION**, in the fifth paragraph, in the fourth line, "Stat. 1051 through 1053" should read "Stat. 1052-1053".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87F-0257]

Filing of Food Additive Petition; Ferro Corp.

Correction

In notice document 87-20267 appearing on page 33472 in the issue of Thursday, September 3, 1987, make the following correction:

In the first column, in **SUPPLEMENTARY INFORMATION**, in the seventh line, "§ 728.2010" should read "§ 128.2010".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Resource Limits for Conditional SSI Payments

Correction

In rule document 87-19253 beginning on page 31757 in the issue of Monday, August 24, 1987, make the following correction:

On page 31758, in the third column, under *SSI Resources Policy and Conditional Payments*, in the first paragraph, in the eighth line, "include the" should read "include in the".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1987 Rev., Supp. No. 1]

Surety Companies Acceptable on Federal Bonds; Motor Club of America Insurance Co.

Correction

In notice document 87-20113 beginning on page 33312 in the issue of Wednesday, September 2, 1987, make the following correction:

On page 33312, in the third column, in the second paragraph, in the first line, "American" should read "America".

BILLING CODE 1505-01-D

federal register

Thursday
September 17, 1987

Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 31

Federal Acquisition Regulation (FAR); Compensation for Personal Services (Severance Pay); Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

Federal Acquisition Regulation (FAR); Compensation for Personal Services (Severance Pay)

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering a change to Federal Acquisition Regulation (FAR) 31.205–6, Compensation for personal services, that would delete certain language affecting severance pay.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before November 16, 1987, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 87–33 in all correspondence related to this issue.

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

SUPPLEMENTARY INFORMATION:

A. Background

A perceived inequity in the language contained in FAR 31.205–6(g)(2)(i) prompted the Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council to reexamine the language related to severance pay within FAR 31.205–6, Compensation for personal services. As a result of this review, the Councils believe that it is not appropriate to disallow the cost of severance payments which are made in addition to early or normal retirement payments, and therefore are proposing to delete the last sentence of FAR 31.205–6(g)(2)(i). However, severance payments will still be required to meet the remaining tests for severance pay as well as the test of overall reasonableness of compensation.

B. Regulatory Flexibility Act

The proposed change to FAR 31.205–6 is not expected to have significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.) because removal of the language results in no additional burden to any business and, in fact, eliminates a limitation on cost allowability. Furthermore, situations involving dual retirement and severance payments have not been frequently encountered.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) does not apply because the proposed rule does not impose any additional recordkeeping on information collection requirements. Therefore, OMB approval under 44 U.S.C. 3501, et seq. is not required.

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: September 14, 1987.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, it is proposed that 48 CFR Part 31 be amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

31.205–6 [Amended]

2. Section 31.205–6 is amended by removing the third sentence in paragraph (g)(2)(i).

[FR Doc. 87–21400 Filed 9–16–87; 8:45 am]

BILLING CODE 6820–61–M

federal register

Thursday
September 17, 1987

Part III

Department of Agriculture

Office of the Secretary

7 CFR Part 12

Highly Erodible Land and Wetland Conservation; Final Rule and Notice of Finding of No Significant Impact

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 12

Highly Erodible Land and Wetland Conservation

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule and notice of finding of no significant impact.

SUMMARY: The purpose of this final rule is to amend an interim rule which sets forth the terms and conditions under which a person who has produced an agricultural commodity on highly erodible land or newly converted wetland shall be declared ineligible for certain benefits provided by the United States Department of Agriculture, i.e., commodity price support or production adjustment payments, farm storage facility loans, disaster payments, payments for storage of CCC grain, Federal crop insurance, and farm loans administered by the Farmers Home Administration, as required by Subtitles B and C of Title XII of the Food Security Act of 1985 (Pub. L. 99–198).

DATES: Effective September 17, 1987. The incorporation by reference of certain publications listed in the regulations has been approved by the Director of the Federal Register as of June 24, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Alex King, Program Specialist, Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service (ASCS), United States Department of Agriculture (USDA), P.O. Box 2415, Washington, DC 20013, telephone: (202) 447–4542. Copies of the combined environmental assessment and finding of no significant impact, regulatory impact analysis, and regulatory flexibility analysis are available through this office.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under United States Department of Agriculture (the "Department" or "USDA") procedures established in accordance with provisions of Departmental Regulation 1512–1 and Executive Order 12291 and has been classified as "major." It has been determined that an annual effect on the economy of $100 million or more may result from implementation of the provisions of this rule. Copies of the regulatory impact analysis are available upon request from the previously mentioned contact.

The paperwork requirements imposed by this rule have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980. The Office of Management and Budget assigned number for those requirements is OMB No. 0550–0004.

It has been determined that this action may have a significant economic impact on a substantial number of small entities. The analysis prepared for this action includes a regulatory flexibility analysis.

The titles and numbers of the Federal assistance programs to which this rule applies are: Commodity Loans and Purchases—10.051; Cotton Production Stabilization—10.052; Emergency Conservation Program—10.054; Emergency Loans—10.404; Farm Operating Loans—10.406; Farm Ownership Loans—10.407; Feed Grain Production Stabilization—10.055; Storage Facilities Equipment Loans—10.056; Wheat Production Stabilization—10.058; National Wool Act Payment—10.059; Beekeeper Indemnity Payments—10.060; Rice Production Stabilization—10.065; Federal Crop Insurance—10.450; Soil and Water Loans—10.416; Loans to Indian Tribes and Tribal Corporations—10.421; as found in the Catalog of Federal Domestic Assistance.

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

It has been determined that this rule does not constitute a major federal action significantly affecting the quality of the human environment. An environmental assessment, dated June 1986, was prepared with regard to development of the interim rule. Notice of the availability of the environmental assessment was provided in the publication of the interim rule.

With regard to the highly erodible land conservation provisions of this rule, the invironmental assessment contains a consideration of the range of environmental effects that may result from implementation of the rule. The range of environmental effects considered recognizes the uncertainty which exists regarding the extent of compliance with the requirements of the rule, the actual erosion control measures that persons will adopt to maintain eligibility for USDA program benefits, and the actual erosion reduction that may result from those control measures. As to wetland conservation, the final rule merely clarifies the extent of the regulations' coverage.

Accordingly, based on review of the environmental assessment prepared for the interim rule, it has been determined that implementation of this final rule will not significantly affect the quality of the human environment. A copy of the finding of no significant impact and environmental assessment is available from the information contact office previously mentioned.

Statutory Authority

This rule is required pursuant to Subtitles B and C of Title XII of the Food Security Act of 1985 (the Act), 16 U.S.C. 3801 *et seq.* Those provisions of the Act remove the incentive that certain benefits provided by the Department could give persons to cultivate highly erodible land or to convert wetlands for the purpose of producing an agricultural commodity. Sections 1211 and 1221 of the Act provide, generally, that any person who, in any crop year, produces an agricultural commodity, without an approved conservation system, on a field in which highly erodible land is predominant or produces an agricultural commodity on any wetland converted after December 23, 1985, will be ineligible for commodity price support or production adjustment payments, farm storage facility loans, disaster payments, payments for storage of Commodity Credit Corporation grain, or Federal crop insurance. Also, any such person will be ineligible for loans made, insured, or guaranteed under any provision of law administered by the Farmers Home Administration if it is determined that the proceeds of such loan will be used for a purpose that will contribute to excessive erosion of highly erodible lands or to the conversion of wetland for agricultural commodity production.

This final rule amends the interim rule published at 51 FR 23496 (June 27, 1986) and applies to crops planted after the effective date of this rule and to all determinations made after or pending on the effective date of this rule. Generally, this rule sets forth (1) the definitions of highly erodible land, wetland, and converted wetland; (2) the activities which would cause a producer to be ineligible for benefits; (3) the exemptions from ineligibility; (4) the responsibilities of each administering agency; and (5) the administrative appeal rights of any person denied eligibility for benefits. This final rule will be implemented by the Agricultural Stabilization and Conservation Service (ASCS), the Commodity Credit Corporation (CCC), the Farmers Home Administration (FmHA), the Federal Crop Insurance Corporation (FCIC), the Soil Conservation Service (SCS) and the Extension Service (ES).

Discussion of Comments and Changes

USDA received 2696 letters containing 8400 comments concerning the interim rule issued on June 27, 1986. Entities responding included individuals, corporations, environmental groups, state and local governments, federal agencies, farm commodity groups, water districts, financial institutions, members of Congress, and others. Comments came from all states, except Alaska and Hawaii.

Changes in this final rule that modify the interim rule of June 27, 1986 are based upon USDA's experience in administering the interim rule, a USDA pilot test of the wetland conservation provision of the interim rule conducted from July 7 to July 25, 1986 in six states, public comments to the interim rule and consultation with the Fish and Wildlife Service of the United States Department of the Interior. Numerous minor editorial changes have been made in the text and order of the regulations for clarity and to facilitate the application of the regulations.

The discussion that follows is organized in the same sequence as the final rule.

Section 12.1 General.

One hundred and three comments were received concerning the general provisions of the interim rule. Many respondents suggested that the regulations be relaxed or rescinded. They cited a wide variety of reasons such as economic difficulties, undue government interference, overly severe penalties for noncompliance, lack of information activities, and difficulty of implementation.

Some respondents suggested that compliance should be based on the availability of cost-share assistance, and that persons should receive payment for complying with the regulations. Several suggested administrative flexibility to allow the shifting of commodity bases on farms to allow and encourage conservation oriented crop rotations. Others suggested that permanent conservation practices that are established in a permanent cover of grasses or legumes should be eligible for consideration as set aside acreage. These comments pertain to specific compliance requirements and are addressed in the final rule under § 12.23, Conservation Plans and Conservation Systems.

These regulations and the conditions they impose are required by the Food Security Act of 1985. USDA does not have the legislative authority to rescind or relax these conservation provisions or to make compliance contingent on the availability of cost share funds. However, the Department has sought to implement and administer the Act's requirements in a reasonable manner.

Furthermore, to the extent ongoing program cost share funds are available, cost share programs such as Agricultural Conservation Program (ACP), and Great Plains Conservation Program (GPCP) may be utilized to apply required conservation treatment on highly erodible cropland. Persons may also have the option to use the Conservation Reserve Program (CRP) to convert highly erodible cropland to grass, trees or wildlife cover for 10 years in return for annual "rental" payments and cost share payments to establish permanent covers. Under the legislation, the incentive for complying with the provisions of these regulations is the retention of eligibility to participate in and receive benefits from certain USDA programs.

The Secretary of Agriculture (the "Secretary") has established USDA information and education task forces at the national and state levels to increase the availability of information relating to the Act and these regulations. These task forces have developed fact sheets, brochures, displays, radio and television spots, news releases and other media material which are being used to better inform landowners and operators of the conservation provisions of the Act.

Also, this rule amends the regulations to provide that the regulations apply to all lands within States, *i.e.*, private lands, Federal, State or local government lands, and Indian tribal lands.

Section 12.2 Definitions

Many comments proposed modifications or additions to the existing definitions. Several comments requested a clarification of the term "normal circumstances" and numerous comments suggested that the definition of "person" should be revised to include agents of landowners or agencies. Other comments proposed broadening the definitions of a "conservation plan" and "conservation system" to include water quality, wetland preservation and other conservation purposes. Comments were also received which proposed changing the definition of "highly erodible land" to include land with streambank erosion.

In response to these comments and for purposes of clarity, several of the definitions have been revised in the final rule. Also, in conformance with section 3 of Pub. L. 100–28 (April 24, 1987), the definition of "conservation plan" was revised to reflect the wording of an amendment to section 1212(a)(2) of the Act, which provides more specific information on the content of a conservation plan. Furthermore, the definition of "highly erodible land" has been revised to indicate that highly erodible land is land that has an "erodibility index" of 8 or more, and a definition of erodibility index was added to more clearly describe the basis for determining the erodibility of land.

Also, it was determined that, for purpose of clarity, the term "normal circumstances" should be defined in context with its customary usage in determining whether land is wetland or not. This definition now appears in § 12.31(b)(2)(i).

The definitions of "conservation plan," "conservation system," or "highly erodible land" were not expanded to include water quality, wetland preservation and other conservation purposes, because considerations of water quality, wetland preservation, or other conservation purposes are not necessary to implement the highly erodible land conservation provisions of the Act to which those definitions relate. Likewise, streambank erosion, which is not the result of sheet, rill or wind erosion as required by the Act, cannot be used in defining or determining "highly erodible land."

The definition of "person" was not changed as suggested because the change is not needed. The person requesting USDA program benefits is the person who must comply with the Act and these regulations. To the extent that the program under which the person requests benefits recognizes agents for the person, agents may, in fact, represent the person for the purposes of these regulations. USDA did delete the term "producer" from the regulation after determining that the term was not essential to the rule.

The definition of "wetland" has been changed to exclude from the definition lands in Alaska identified as having high potential for agricultural development which have a predominance of permafrost soils. This change is required by the amendment to the Act's definition of "wetland" made by the Urgent Supplemental Appropriations Act of 1986, Pub. L. 99–349, 100 Stat. 710,714.

Section 12.4 Determination of Ineligibility

Seven hundred identical comments were received concerning determinations of ineligibility with regard to converted wetlands. All the respondents suggested the "rules should provide that in event the landowners crop or otherwise farm land classified as

wetlands, the action should only affect that particular farm unit and not other farm units the landowner and/or tenant has an interest in or is farming or operating."

Under the Act, however, ineligibility applies as to any commodity produced by a person, who has violated program provisions, during the crop year. Accordingly, the scope of § 12.4 is unchanged.

Section 12.5 Exemptions

Five comments were received concerning the extension of time for compliance with the highly erodible land conservation provisions in situations where soil survey maps are not available.

All five respondents expressed the concern that the references to an available soil survey in § 12.5(a) and (b)(1) were not clear as to whether the soil survey must be completed as to an entire farm or just for the existing cropland portion of a farm.

Sections 12.5(a) and (b)(1) have been changed to make clear that the referenced soil survey applies only to the cropland portion of the tract or farm. In order to carry out the highly erodible land and wetland conservation provisions of this rule, SCS must complete, as a minimum, a soil survey of all existing cropland on the tract or farm. However, it is SCS policy to complete a soil survey of the entire farm whenever resources permit, since a soil survey of the entire farm will allow SCS to identify those noncropland fields that contain highly erodible or hydric soil map units in order to inform landowners and operators of potential problems with eligibility if these areas are converted to cropland in the future.

One hundred and forty-nine comments were received suggesting that alfalfa, when used in a crop rotation, be considered an agricultural commodity so as to qualify for exemption under § 12.5(a) and (b)(1). The Act, however, specifically defines an agricultural commodity as any agricultural commodity that is planted and produced by the annual tilling of the soil.

Alfalfa, other legumes or grasses are not tilled annually and thus do not meet the definition of an agricultural commodity. Therefor, if a crop field was in alfalfa, other legume or grasses during the period 1981 to 1985, and was broken up to plant an annually tilled crop in 1986 or later years, the person may lose eligibility for program benefits. However, where alfalfa, other legumes or grass are used as a high residue crop in a crop rotation, as distinguished from permanent hayland or grassland, the existing crop rotation and management techniques may be considered to constitute an acceptable conservation system for the field. In such cases, a person may only need to have SCS determine that the existing conservation system meets the requirements of the local SCS field office technical guide, and obtain the approval for the conservation system from the local conservation district or SCS to maintain eligibility.

On April 24, 1987, section 1212(b) of the Act (16 U.S.C. 3812(b)) was amended by Pub. L. 100–28. The amendment authorized a one year extension of time for full implementation of conservation plans where alfalfa has been used in crop rotations (but not where alfalfa has been used for permanent hayland or pasture). Accordingly, a new § 12.5(b)(2) has been added to implement the time extension granted by the amendment. Essentially, persons who had alfalfa in a crop rotation on highly erodible land during each of the 1981 through 1985 crop years based on a conservation plan have until June 1, 1988 to fully apply the conservation system. The provisions contained in § 12.5(b)(2) of the interim rule have been moved to a new section (§ 12.32) of the final rule and are discussed later.

Four comments were received concerning the renovation of existing pastures. These comments noted that it is common, in many areas, to use a rotation of conventional crops for periods of two to three years before returning the land to permanent pasture. This cropping period is necessary to eliminate undesirable plant species that may have invaded the pasture and to prevent the recurrence of pasture plant diseases. The respondents requested that an exemption for renovation of pasture be added to the highly erodible land provisions to specifically allow rotation crops to be planted and harvested, and to allow soil loss to exceed tolerance levels during the period when rotation crops are grown.

It has been determined that no changes will be made in the final rule to categorically allow exceptions for breaking out highly erodible land for the production of annual crops in these situations. The production of annual crops on highly erodible land, even though done for purposes of permanent pasture renovation, falls within the scope of the highly erodible land conservation provisions of the Act and would require an approved conservation system. However, it should be noted that since erosion rates are computed over the full rotation period, additional erosion control practices may not be required if the average annual rate of erosion is acceptable, even though excessive erosion occurs in some individual years until permanent pasture is reestablished. Conversely, if the average annual erosion rate is excessive, a conservation system would specify the necessary erosion control practices and any allowable rotation crops, on a case by case basis, that could be produced for pasture renovation.

Another comment sought an exemption for situations where brushland is converted to grassland. Conversions from brush to grass are not subject to the highly erodible land provisions because grass is not an agricultural commodity for purposes of the Act. Therefore, the rule does not require modification in this regard.

Exemption Based on Economic Impact and Feasibility

Eight hundred and ninety comments were received concerning the economic impacts of § 12.5(b)(2) and (3) of the interim rule, which required that conservation systems and plans be developed to reduce soil erosion to an established soil loss tolerance level (T), with twice that level (2T) being allowed in specific circumstances. Seven hundred and thirty-four comments stated that these requirements would unduly affect the economy by forcing farmers out of business and causing adverse impacts on local agribusiness. Thirty-four comments were received concerning the economic hardship exemption of allowable soil loss tolerance (2T). Twelve respondents supported the exemption; twenty-two respondents opposed the provision of the interim rule allowing up to 2T soil loss upon a determination by SCS that further reduction is impractical. Three respondents suggested that exemption should be more than 2T. Ninety-two comments were concerned that farmers would be forced to apply expensive conservation measures that they could not afford.

Based upon the public comments and the Act's legislative history, USDA has determined that the "T" and "2T" limitations for conservation plans and conservation systems are too restrictive. For that reason § 12.5(b) (2) and (3) of the interim rule were amended on June 29, 1987, 52 FR 24132. The purpose, scope and effect of this change is more fully discussed in that rule. These provisions of the amended rule are currently in effect, are the subject of public comment, and are not made final by this rule. Although it has been incorporated in this final rule, relevant comments are encouraged and may be submitted in response to the June 29

amended interim rule and a final rule with respect to these provisions will be issued at a later date.

In this final rule this part of the interim rule has been moved to § 12.23, Conservation Plans and Systems, and expanded for a more comprehensive discussion of the requirements for conservation plans and systems.

Section 12.5(d) Exemptions for wetland.

Section 12.5(d)(1)(i) has been revised to clarify that the production of agricultural commodities on converted wetlands is exempt if the conversion was commenced or completed prior to December 23, 1985. This change implements the intent of Congress to exempt the production of agricultural commodities on converted wetlands if conversion was completed prior to December 23, 1985, as well as on converted wetlands where the conversion was commenced prior to December 23, 1985.

Four hundred and sixty comments were received on the "third party exemption" in § 12.32 of the interim rule. This exemption protected persons who produce agricultural commodities on wetlands converted by the actions of persons unassociated with the person requesting benefits. All of these respondents suggested that any person who produces an agricultural commodity on wetlands converted after December 23, 1985 should be determined to be ineligible for program benefits regardless of who caused the conversion.

The provisions regarding "third party exemptions" have been moved from § 12.32 to § 12.5(d)(1)(vi) in the final rule because this subject relates to exemptions more so than to the criteria for identifying converted wetlands, which continues to be the subject of § 12.32. The third party conversion provisions were amended after considering the public comments and consulting with the Fish and Wildlife Service. Under this final rule, converted wetlands are presumed to have been converted by the person applying for USDA program benefits unless the person can show that the conversion was by an independent third party and the person can show that there has been no involvement in a scheme or device to avoid compliance with this rule. Furthermore, such person may continue to produce agricultural commodities on such converted wetland and retain eligibility only as long as there is no further improvements to the drainage of such converted wetland or if a minimal effect determination is made by SCS with regard to any further drainage improvement. Conversely, if there was acquiescence in, approval of, or assistance to acts of a third party in regard to the conversion of the wetland, the person is subject to the scheme or device provisions of § 12.10 and may lose eligibility for program benefits. This approach allows persons who had no control whatsoever over the incidental conversion of wetland to use such lands for the production of agricultural commodities but at the same time prevents schemes or devices from being used to circumvent the rule and avoids undue windfall benefits to landowners or operators at the expense of wetland conversion.

With regard to wetlands converted prior to the effective date of the Act, § 12.5(d)(2) was added to the final rule to make clear that determinations regarding whether the conversion of wetland was completed prior to December 23, 1985 will be based upon consideration of the types of activities set forth in the definition of what constitutes a "converted wetland."

Fifty-one comments on the interim rule were concerned that the definition of converted wetland would allow additional drainage to occur to these lands after December 23, 1985. Section 12.5(d)(1)(i) of the final rule makes it clear that wetlands converted prior to December 23, 1985 are exempted from the rule by the law. Therefore, those converted wetlands may be improved by additional drainage, provided that no additional wetland or abandoned converted wetland is brought into production of an agricultural commodity. Also see § 12.33(b) of the final rule. However, under § 12.32(a)(3) of the final rule, potholes and playas and other wetlands that are flooded or ponded for extended periods, especially during the early growing season, will not be considered converted based upon activities that occurred prior to December 23, 1985, and further conversions will result in the loss of program benefits unless the conversion is determined to have a minimal effect, as determined pursuant to § 12.5(d)(1)(v).

Eight hundred and eighty-three comments were received concerning the exemption in § 12.5(d) (1) and (2) of the interim rule regarding converted wetlands for which conversion was commenced before December 23, 1985. Seven hundred respondents suggested that the exemption should include projects and drainage which have been planned but not installed as of December 23, 1985. These respondents further suggested that ongoing projects should not be unduly restricted. One hundred eighty-three respondents supported the commenced exemption as set forth in the interim rule.

After consideration of the comments and consultation with the Fish and Wildlife Service, USDA has revised the definition of "commenced" in § 12.5(d) (3) and (4) of the final rule to clarify what constitutes commencement of conversion prior to December 23, 1985 and to assure that commencement of conversion determinations are based on one or more of the following criteria: (1) the conversion activity was actually started before December 23, 1985; or (2) the person expended or committed substantial funds by entering into a contract for the installation of a drainage activity or for construction supplies and materials for the conversion prior to December 23, 1985.

The final rule also provides that a person seeking a determination of conversion commendement under this exemption must request the determination within one year following publication of this rule, must demonstrate that the conversion of the wetland has been actively pursued and must complete the conversion by January 1, 1995.

A new § 12.5(d)(4) has been added to specifically address the activities of drainage districts or entities that relate to the conversion of wetland. It imposes all of the criteria discussed above and, in addition, requires the drainage districts or similar entities to have had on file prior to December 23, 1985, an approved plan for installation of the district drainage project. Further, only those portions of the drainage project for which a substantial commitment of funds has been made or legally obligated prior to December 23, 1985 will be considered for exemption under § 12.5(d)(4). Finally, a person who wants to use the conversion commencement exemption in this situation must show that the drainage of the person's wetland was part of the project drainage plan.

Section 12.12 Appeals.

Seven comments were received concerning administrative appeals.

Four comments supported the administration appeal procedures as referenced in § 12.10 of the interim rule. Three comments recommended a change that would allow interested third parties to appeal any determination made under these regulations.

Under the Act, only the person or persons who face the loss of eligibility for USDA program benefits are adversely affected and have the right to an administrative appeal. The appeal procedures generally allow agencies to

request other interested persons to present information that directly relates to the determination under appeal. However, the interested party is not a party to the appeal.

Additionally, three hundred and ninety-six comments were received concerning the reporting of violations of the Act and these regulations. All of the respondents suggested that private citizens be allowed to report violations. Several respondents suggested that a toll free number be set up for this purpose.

The Department responds to reports of program violations when received from private citizens. There is presently a USDA toll-free number for use in reporting violations of USDA programs: 1–800–424–9121. Additionally, persons may report suspected violations by calling or writing the county office of ASCS, FmHA, or FCIC, as applicable.

For reference, the Code of Federal Regulation citations for the appeal procedures of all the USDA agencies involved in implementing the rule have been added to § 12.12.

Section 12.21 Criteria for Identifying Highly Erodible Lands.

One hundred and eighty-two comments were received concerning the criteria for identifying highly erodible lands. One hundred and thrity-seven comments made suggestions concerning the use of the erodibility index value for identifying highly erodible lands.

Twenty-four comments were concerned about the use of assigned "I" values for determining the Wind Erosion Erodibility Index (CI/T) rather than "I" values which have been adjusted to reflect tillage practices. The "I" value is the degree to which soil resists wind erosion. Twenty one comments were concerned about the consistency of the criteria and the breakpoint level used for identifying highly erodible lands, as set forth in the interim rule, with similar criteria existing for the Conservation Reserve Program (7 CFR Part 704).

It has been determined that the Erodibility Index (EI) criteria will be retained in the final rule, including the present break point value of "8 or more." At this value level, a majority of the lands that have a serious erosion problem if cropped without adequate erosion protection will be covered. Thus, the criteria set forth in this rule and the criteria that are applicable to the Conservation Reserve Program will be consistent. The Department recognizes that having a breakpoint discriminates between lands that fall on opposite sides of the breakpoint, but any criteria used (*e.g.*, land capability classes, erodibility index or actual erosion rates) would encounter the same problem. In order to implement that Act in a reasonable and practical manner, some cut-off point which is consistent with the Act's purposes must be used. The breakpoint value of "8 or more" has been determined to be the level which is most consistent with these purposes.

Furthermore, it has been determined that the EI values for wind erosion and water erosion should not be combined. While both wind and water erosion may occur on the same field, both erosion types do not necessarily occur on the same acre nor do both types of erosion occur at the same time of year. Thus, whichever is the most prevalent type of erosion, either wind or water, will be used to establish the EI value. If that value exceeds 8 or more, the soil unit is classified as a "highly erodible unit." About 1.4 million acres of the Nation's croplands have EI values between 5 and 8 for both wind and water erosion combined, which is less than 1.3 percent of all of the highly erodible cropland in the United States.

Also, it has been determined that only assigned "I" values, without adjustments to reflect tillage and other management practices, will be used to calculate the EI value in determining whether land is highly erodible due to the wind erosion hazard, since the EI represents the potential erodibility of the soil and not the actual rate of erosion. Adjusted "I" values may be used, where applicable, in determining whether an adequate conservation system is being followed, since the land management factors considered in the adjustment are relevant to that type of determination.

Section 12.23 Conservation plans and conservation systems.

A new section has been added in the final rule concerning conservation plans and conservation system requirements. Section 12.23(a) contains the wording set forth in the amendment to the interim rule which was published in the **Federal Register** on June 29, 1987, as previously mentioned.

Additionally, this section in the final rule contains four new provisions, § 12.23 (b), (c), (d), and (e), to clarify some minor misunderstandings regarding the interim rule that became apparent from the comments and during implementation of the interim rule. These revisions provide that:

1. Persons are encouraged to request SCS assistance for the development of a conservation plan or implementation of a conservation system well in advance of deadline dates to avoid delays and difficulties in maintaining eligibility for program benefits.

2. SCS will handle the approval or disapproval of conservation plans and systems in those situations where a conservation district does not provide such a determination within 45 days, unless there is good cause for delay.

3. Section 12.23(d) describes what constitutes "actively applying a conservation plan" so that a person may determine whether a plan is being actively applied by the person so as to meet the requirements of the Act.

4. Persons who believe the requirements for conservation plans and systems were misapplied with regard to them may appeal to SCS.

Fifty-nine comments were received concerning the requirements for conservation plans and the role of conservation districts in plan approval. Forty-eight comments favored the conservation district role provided in the interim rule and the requirements for conservation plan development but suggested some modification of these requirements. These suggestions included (1) providing more flexibility in the planning process, (2) allowing farmers to prepare their own plans, (3) placing a 5-year life span on conservation plans, and (4) requiring that conservation plans address all resource concerns. It has been determined that the rule adequately reflects the legislative intent concerning the development of the required conservation plan. Land owners and operators are responsible for making land use and conservation treatment decisions concerning their land and for compliance with the Act. The function of the soil conservationist is to identify acceptable conservation (treatment) system alternatives and to provide this and other relevant information of the landowner or operator. This process provides maximum flexibility in terms of format and content of the plan, the conditions under which a plan is to be revised, the types of resource concerns that can be addressed in the plan, and how the plan is prepared. A plan may be prepared solely by the person, or with assistance of SCS, or with assistance of a private consultant. When a conservation plan is prepared by parties other than SCS, the person must obtain SCS certification that the plan meets SCS standards and obtain the approval of the conservation district.

It has been determined that persons will be allowed to exchange, subject to restrictions, certain crop acreage bases for crops that have a high residue base if the high residue crop is recommended by SCS as being essential for the conservation plan and the recommendation is approved by ASCS.

See § 12.6(b)(3)(iv). The ability to exchange certain crop acreage bases for high residue crops will give persons more flexibility in the selection of acceptable conservation systems for highly erodible cropland. Determinations governing such exchanges will be administered pursuant to other relevant parts of Title 7 of the Code of Federal Regulations.

Section 12.31 Hydric soil criteria.

Eighty-six comments were received concerning the hydric soil criteria used to identify wetland. Most of these comments were concerned about the method used to identify hydric soils in the interim rule. Some respondents supported the method, while others believed the method would include too much land as wetland, and still others believed the method would not include enough land. A few comments suggested that the on-site procedures be used in all situations. Some comments recommended that soil map units which were not hydric but which contained hydric soil inclusions be deleted from hydric soil lists. A couple of comments recommended that only organic soils should be included in the lists of hydric soils and others recommended that SCS publish hydric soil criteria in the **Federal Register**.

Changes have not been made to the technical criteria for determining hydric soils as a result of these comments; however, changes were made in § 12.32 regarding converted wetland identification criteria. The method used for wetland identification was developed to provide the resource data necessary to determine predominance of hydric soils and prevalence of hydrophytic vegetation in order to make wetland determinations in accord with the Act's wetland definition. With regard to on-site determinations, USDA does not believe that it is necessary to make an on-site determination in all cases. The rule does provide for on-site determinations in those cases where an office determination cannot be made on the information available. Additionally, a person may request reconsideration of a wetland determination, which would then require an on-site determination. This procedure will allow SCS to allocate resources in an effective and efficient manner, while assuring that determinations are based on accurate information.

The rule does not exclude soil map units that have inclusions because many inclusions in a map unit consist of potholes or other wet areas that are clearly wetlands and have significant wetland values. To eliminate those soil map units that contain these inclusions from the list of hydric soils would not be consistent with the Act's objective of encouraging the conservation of wetland values.

The hydric soils criteria have been developed by an interagency committee of professionals in soils and wetlands independently of the Food Security Act of 1985. The legislative history of the Act recognizes this independent list and indicates that these criteria are to be used to identify wetlands. Comments concerning a proposed change in the criteria along with supporting data may be sent to: Chairman, National Technical Committee for Hydric Soils, USDA, Soil Conservation Service, P.O. Box 2890, Washington, DC 20013. If a change in the list or the criteria is made, a notice will be published in the **Federal Register.**

Section 12.31(b) Prevalence of hydrophytic vegetation.

Thirty-four comments were received concerning the determination of a prevalence of hydrophytic vegetation. Twelve respondents felt too much land would be included as wetland by using the method described in the interim rule, and six felt too little land would be included. Sixteen comments suggested that the list of hydrophytic plants, and any changes in it, be circulated for review prior to adoption.

No change has been made in the method for determining prevalence of hydrophytic vegetation. However, changes have been made in § 12.32, regarding converted wetland identification criteria. The method used to determine prevalence of hydrophytic vegetation employs the National List of Plant Species That Occur in Wetlands (NLPSOW) and a weighted average technique, which uses plant indicator designations for the prevalence determination. The use of the NLPSOW is based on the Act's legislative history and interagency acceptance of the national list. The weighted average technique is an effective way to quantify prevalence based on data from previously sampled plant communities. The method was chosen because it is accurate, relatively simple to perform, yields a numerical value which can be used to quantify determinations, and lends itself to analysis of plant data using different plant data collection techniques. Related studies suggest that the NLPSOW value of 3.0 is the logical separation point between wetland and nonwetland. Under the final rule, the test for the prevalence of hydrophytic vegetation is applied after a determination has been made that an area is composed of hydric soils that are inundated or saturated.

The NPSLOW represents the best available technical knowledge in this field. The plant list is an interagency effort which is assembled by the Fish and Wildlife Service, Soil Conservation Service, the Army Corps of Engineers, and the Environmental Protection Agency. The NLPSOW contains a procedure for listing, delisting, or changing the indicator status of plant species. Copies of the NLPSOW may be obtained from the U.S. Fish and Wildlife Service, National Wetland Inventory, Monroe Building Suite 101, 9720 Executive Center Drive, Saint Petersburg, Florida 33702. Persons having data that supports a change of a listed plant species may submit their change request and data according to the procedures outlined in the NPSLOW.

Section 12.31(c)(1) Artificial wetland.

Section 12.31(c)(1) has been clarified by specifying that artificial wetland is identified as land that was formerly nonwetland or converted wetland but now is wetland due to manipulation.

Section 12.32(b) Farming under natural conditions.

Comments were received concerning the exemption for the production of agricultural commodities on wetland during a period of drought. The comments suggested that wetland that can be cultivated for a lengthy period of time should not come within this exemption and that restrictions be placed on the use of herbicides with regard to agricultural commodity production under this provision.

No changes have been made as a result of these comments. The Act expressly allows farming of wetland during dry years and the number of years that the natural conditions are dry enough to permit farming is not an appropriate consideration in determining whether a wetland has been converted. As to the suggested restrictions on herbicides, the use of approved herbicides is a part of normal, environmentally acceptable farming practices and so, the final rule does not categorically impose any specific restrictions.

Section 12.31(d) Minimal effect.

Seven hundred and seventy-four comments were received concerning the determination of the effect of converting wetland, as set forth in the interim rule. All of the comments suggested that the rule specifically allow the mitigation of fish and wildlife values to provide the basis for exemption. Most of the comments suggested that the final rule permit water resource districts to work

with the Fish and Wildlife Service to develop drainage projects that provide replacement benefits to wildlife. The concern expressed was that the interim rule did not permit water resource districts to improve conditions for wildlife and thus replace wetland losses in order to allow their individual constituents to remain eligible for program benefits.

After consideration of these comments, the rule has not been changed to allow the production of agricultural commodities on converted wetland to be exempted categorically through the mitigation of the loss of fish and wildlife values. The wetland conservation provisions of the Act encourage the preservation and protection of natural wetlands, rather than the replacement of natural wetlands with artificial wetlands that may have similar fish and wildlife values. Further, if mitigation were allowed on a broad scale, extensive monitoring efforts would be required to ensure that mitigation is carried out and maintained.

Also, the increased use of converted wetland for agricultural commodity production would not be discouraged if mitigation were used for a categorical exemption. The final rule does not preclude the possibility of considering the merits of mitigation on a case by case basis in the course of making a "minimal effects" determination. In these specific situations, mitigation would be considered as a limited exception, rather than the rule, as the legislative intent for the minimal effect determination is that it should rarely be used.

Of course, this does not preclude mitigation from being used in conjunction with project-type activities that have objectives other than the conversion of wetland for the production of agricultural commodities.

In response to comments and after consultation with the Fish and Wildlife Service, new wording has been added to § 12.31(d) that precludes the further alteration of converted wetlands which were the subject of a minimal effects determinations. In this situation, a person is required to advise SCS of any proposed action that may change the hydrological or biological aspects of a converted wetland after the original minimal effect determination has been made so that the effects of the subsequent alterations may be considered to determine if those effects are so different as to no longer be minimal.

Section 12.32 Converted wetland identification criteria.

This section has been revised to provide that the land and water alteration activities described in the definition of "converted wetland" (see § 12.2(a)(6)) are criteria used to determine if a wetland has been converted. If evidence of these activities is not clearly discernable at the time of the determination, SCS will compare the hydric soils on the subject site with the same hydric soils on another nearby natural (undrained) site to determine if a crop can be produced without manipulating the water regime. If a crop could not be produced on the comparison wetland site without manipulation of the water regime, the subject area will be considered to be converted wetland. If a crop could be produced on the comparison site without manipulating of the water regime, the subject area will be determined to be a wetland that has not been converted. The production of an agricultural commodity may continue on the subject wetland as long as no conversion activity is carried out.

Seven hundred comments were received concerning the maintenance of existing drains on converted wetlands that are exempt from the Act's coverage. All of the respondents suggested that the rule should be clear as to whether maintenance of such drains is permissible. The final rule makes clear that for most converted wetlands, maintenance and improvement of drainage systems is appropriate, as long as additional wetlands are not converted and brought into commodity production. However, it has been determined that certain wetlands, *i.e.*, topographical depressions, such as potholes and playas and other seasonally flooded or ponded wetlands, retain significant wetland functions even if the water regime was modified before December 23, 1985. If these areas continue to meet the wetland criteria they will be identified as wetlands rather than converted wetlands, despite the prior manipulations, to protect the remaining wetland values. Persons may continue to farm these areas as they did prior to December 23, 1985 and remain eligible for program benefits; however, no further actions can be taken to increase effects on the water regime of these areas unless SCS makes a minimal effects determination.

A new paragraph (g) has been added in § 12.5 which places the burden of proof on the person seeking exemption on the basis of conversion prior to December 23, 1985, to show when a wetland was converted or when conversion was commenced.

Seven hundred comments were received concerning land that has been farmed three out of five years prior to passage of the Act. All of the respondents suggested that land in this category should be exempt from program restrictions.

It has been determined that crop history alone will not be used in the final rule as an indicator of wetland conversion. Wetlands that are farmed 3 out of 5 years prior to December 23, 1985 will not be considered to have been converted on that basis alone. This does not preclude such wetlands from being farmed in the same manner as they have been in the past. This does restrict what can be done in terms of drainage improvement on these wetlands, unless they are determined, on the basis of other factors, to have been converted before December 23, 1985. Crop history may be used in converted wetland determinations to analyze the extent of conversion and the purposes for which conversion was undertaken.

List of Subjects in 7 CFR Part 12

Highly erodible land, Wetland, Conservation, Price support programs, Federal crop insurance, Farmers Home Administration loans, Incorporation by reference, Loan programs—Agriculture, Environmental protection.

Accordingly, Title 7 of the Code of Federal Regulations is amended by revising Part 12 as follows:

PART 12—HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION

Subpart A—General Provisions

Sec.

Subpart B—Highly Erodible Land Conservation

Subpart C —Wetland Conservation

Authority: 16 U.S.C. 3801–3823, 3841–3844.

Subpart A—General Provisions

§ 12.1 General.

(a) This part sets forth the terms and conditions under which a person, who, after December 23, 1985, produces an agricultural commodity on highly erodible land or converted wetland, shall be determined to be ineligible for certain benefits provided by the United States Department of Agriculture and agencies and instrumentalities of the Department.

(b) The purpose of the provisions of this part are to remove certain incentives for persons to produce agricultural commodities on highly erodible land or converted wetland and to thereby—

(1) Reduce soil loss due to wind and water erosion,

(2) Protect the Nation's long term capability to produce food and fiber,

(3) Produce sedimentation and improve water quality,

(4) Assist in preserving the Nation's wetlands, and

(5) Curb production of surplus commodities.

§ 12.2 Definitions.

(a) The following definitions shall be applicable for the purposes of this part:

(1) "Agricultural commodity" means any crop planted and produced by annual tilling of the soil, including tilling by one-trip planters or sugarcane.

(2) "ASCS" means the Agricultural Stabilization and Conservation Service, an agency of the United States Department of Agriculture which is generally responsible for administering commodity production adjustment and certain conservation programs of the Department.

(3) "Conservation District" (CD) means a subdivision of a State or local government organized pursuant to the applicable law to develop and implement soil and water conservation activities or programs.

(4) "Conservation plan" means the document containing the decisions of a person with respect to the location, land use, tillage systems and conservation treatment measures and schedule which, if approved, must be or have been established on highly erodible cropland in order to control erosion on such land.

(5) "Conservation system" means the part of a cropland resource management system applied to a field or group of fields that provides for cost effective and practical erosion reduction based upon the standards contained in the SCS field office technical guide. A conservation system may include a single practice or a combination of practices.

(6) "Converted wetland" means wetland that has been drained, dredged, filled, leveled, or otherwise manipulated (including any activity that results in impairing or reducing the flow, circulation, or reach of water) that makes possible the production of an agricultural commodity without further application of the manipulations described herein if (i) such production would not have been possible but for such action; and (ii), before such action such land was wetland and was neither highly erodible land nor highly erodible cropland.

(7) "CCC" means the Commodity Credit Corporation, a wholly-owned government corporation within the United States Department of Agriculture organized under the provisions of 15 U.S.C. 714 *et seq.*

(8) "Department" means the United States Department of Agriculture.

(9) "Erodibility index" means a numerical value that expresses the potential erodibility of a soil in relation to its soil loss tolerance value without consideration of applied conservation practices or management.

(10) "ES" means the Extension Service, an agency of the United States Department of Agriculture which is generally responsible for coordinating the information and educational programs of the Department.

(11) "FmHA" means the Farmers Home Administration, an agency of the United States Department of Agriculture which is generally responsible for providing farm loans and loan guarantees under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 *et seq.*) and other laws.

(12) "FCIC" means the Federal Crop Insurance Corporation, a wholly-owned government corporation within the United States Department of Agriculture organized under the provision of 7 U.S.C. 1501 *et seq.*

(13) "Field" means a part of a farm which is separated from the balance of the farm by permanent boundaries such as fences, roads, permanent waterways, woodlands, croplines (in cases where farming practices make it probable that such cropline is not subject to change) or other similar features.

(14) "Highly erodible land" means land that has an erodibility index of 8 or more.

(15) "Hydric soils" means soils that, in an undrained condition, are saturated, flooded, or ponded long enough during a growing season to develop an anaerobic condition that supports the growth and regeneration of hydrophytic vegetation.

(16) "Hydrophytic vegetation" means plants growing in water or in a substrate that is at least periodically deficient in oxygen during a growing season as a result of excessive water content.

(17) "Landlord" means a person who rents or leases farmland to another person.

(18) "Local ASCS office" means the county office of the Agriculture Stabilization and Conservation Service serving the county or a combination of counties in the area in which a person's land is located for administrative purposes.

(19) "Operator" means the person who is in general control of the farming operations on the farm during the crop year.

(20) "Owner" means a person who is determined to have legal ownership of farmland and shall include a person who is purchasing farmland under contract.

(21) "Person" means an individual, partnership, association, corporation, cooperative, estate, trust, joint venture, joint operation, or other business enterprise or other legal entity and, whenever applicable, a State, a political subdivision of a State, or any agency thereof and such person's affiliates as provided in § 12.8 of this part.

(22) "Secretary" means the Secretary of the United States Department of Agriculture.

(23) "Sharecropper" means a person who performs work in connection with the production of a crop under the supervision of the operator and who receives a share of such crop for such labor.

(24) "SCS" means the Soil Conservation Service, and agency within the United States Department of Agriculture which is generally responsible for providing technical assistance in matters of soil and water conservation and for administering certain conservation programs of the Department.

(25) "Soil map unit" means an area of the landscape shown on a soil map which consists of one or more soils.

(26) "State" means each of the fifty states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of

the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(27) "Tenant" means a person usually called a "cash tenant", "fixed-rent tenant", or "standing rent tenant" who rents land from another for a fixed amount of cash or a fixed amount of a commodity to be paid as rent; or a person (other than a sharecropper) usually called a "share tenant" who rents land from another person and pays are rent a share of the crops or proceeds therefrom. A tenant shall not be considered the farm operator unless the tenant is determined to be the operator pursuant to this part and 7 CFR Part 719.

(28) "Wetland", except when such term is part of the term "converted wetland", means land that has a predominance of hydric soild and that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions, except that this term does not include lands in Alaska identified as having a high potential for agricultural development and a predominance of permafrost soils.

(b) In the regulations in this part and in all instructions, forms, and documents in connection therewith, all other words and phrases specifically relating to ASCS operations shall, unless the context of subject matter or the specific provisions of this part otherwise requires, have the meanings assigned to them in the regulations governing reconstitutions of farms, allotments and bases (7 CFR Part 719).

§ 12.3 Applicability.

(a) The provisions of this part shall apply to all land, including Indian tribal land, in the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(b) The provisions of this part apply to all agricultural commodities planted after, and to determinations made after or pending or September 17, 1987. For those agricultural commodities planted prior to such date and for all determinations made prior to such date, the regulations published at 51 FR 23496, June 27, 1986, as amended on June 29, 1987 (52 FR 24132) shall apply.

§ 12.4 Determination of ineligibility.

(a) Except as provided in § 12.5, any person who, after December 23, 1985, produces an agricultural commodity on a field in which highly erodible land is predominant or on converted wetland shall be ineligible:

(1) As to any commodity produced during that crop year by such person:

(i) For any type of price support or payment made available under the Agricultural Act of 1949, the CCC Charter Act, or any other Act;

(ii) For a farm storage facility loan made under Section 4(h) of the CCC Charter Act;

(iii) For any disaster payments made under the Agricultural Act of 1949;

(iv) For crop insurance under the Federal Crop Insurance Act;

(v) For a farm loan made, insured, or guaranteed by the FmHA, if FmHA determines that the proceeds of such loan will be used for a purpose that will contribute to excessive erosion of highly erodible land (i.e., production of an agricultural commodity on highly erodible land without a conservation plan or conservation system as required by this part) or to conversion of wetland for agricultural commodity production; or

(2) For a payment made under section 4 or 5 of the CCC Charter Act during such crop year for the storage of an agricultural commodity owned by CCC.

(b) A person shall be determined to have produced an agricultural commodity on a field in which highly erodible land is predominant or on converted wetland if:

(1) SCS has determined that—

(i) Highly erodible land is predominant in such field or

(ii) All or a portion of the field is converted wetland;

(2) ASCS has determined that the person is or was entitled to share in the crops available from the land, or in the proceeds thereof; and

(3) ASCS has determined that the land is or was planted to an agricultural commodity or was planted to an agricultural commodity during the year for which the person is requesting benefits.

(c) Persons who produce agricultural commodities and wish to participate in any of the USDA programs described in paragraph (a) of this section are responsible for contacting the appropriate agency of the Department well in advance of intended participation date so that Form AD 1026 can be completed. This contact will help assure that the appropriate determinations regarding highly erodible land or wetland, and conservation plans or conservation systems are scheduled in a timely manner. A late contact may not allow sufficient time for USDA to service the request and could result in a substantial delay in receiving a USDA determination of eligibility or ineligibility.

§ 12.5 Exemptions.

(a) *Highly erodible cropland in production or in Department programs during 1981 through 1985 crop years.* During the period beginning on December 23, 1985, and ending on the later of January 1, 1990, or the date that is two years after the date the cropland on which an agricultural commodity is produced was surveyed by the SCS to determine if such land is highly erodible, no person shall be determined to be ineligible for benefits as provided in § 12.4(a) as the result of the production of a crop of an agricultural commodity on any highly erodible land:

(1) That was planted to an agricultural commodity in any year 1981 through 1985; or

(2) That was set aside, diverted or otherwise not cultivated in any such crop years under a program administered by the Secretary for any such crops to reduce production of an agricultural commodity.

(b) *Compliance with a conservation plan or conservation system.* As further specified in this part, no person shall be ineligible for the program benefits described in § 12.4(a) as the result of production of an agricultural commodity on highly erodible land if such production is in compliance with an approved conservation plan or conservation system.

(1) With respect to the production of an agricultural commodity on any land identified under paragraph (a) of this section, if, as of January 1, 1990, or the date that is 2 years after the date SCS has completed a soil survey of the cropland on the tract or farm, whichever is later, a person is actively applying a conservation plan based on the local SCS field office technical guide and approved by the CD, in consultation with the local ASC committees and SCS, such person shall have until January 1, 1995, to fully comply with the plan without being determined to be ineligible for benefits under § 12.4.

(2) Persons who had, during each of the 1981 to 1985 crop years, alfalfa on highly erodible land in a crop rotation determined by SCS to be adequate for the protection of highly erodible land shall have until June 1, 1988 to fully implement an approved conservation system without being subject to program ineligibility under § 12.4. Failure to fully implement an approved conservation system by June 1, 1988 shall cause a person to be determined to have been ineligible for program benefits for the 1988 crop year, and to be ineligible for

each following crop year that an agricultural commodity is produced on such land without an approved conservation system.

(3) A person shall not be ineligible for program benefits under § 12.4(a) as the result of the production of an agricultural commodity which was produced on highly erodible land in an area:

(i) Under a conservation system that has been approved by the CD after the CD determined that the conservation system is in conformity with technical standards set forth in the SCS field office technical guide for such district; or

(ii) Not within a CD, under a conservation system that has been approved by SCS, to be adequate for the production of such agricultural commodity on highly erodible land.

(c) *Reliance upon SCS determination for highly erodible land.* A person shall not be ineligible for program benefits as the result of the production of an agricultural commodity which was produced on highly erodible land in reliance on a determination by SCS that such land was not highly erodible land, except that this paragraph (b)(3) of this section shall not apply to any agricultural commodity that was planted on any land after SCS determines that such land is highly erodible land, and the person is notified of such determinations.

(d) *Exemptions for wetland.* (1) A person shall not be determined to be ineligible for program benefits under § 12.4 as the result of the production of an agricultural commodity on:

(i) Converted wetland if the conversion of such wetland was commenced or completed before December 23, 1985; or

(ii) An artificial lake, pond or wetland created by excavating or diking non-wetland to collect and retain water for purposes such as water for livestock, fish production, irrigation (including subsurface irrigation), a settling basin, cooling, rice production, or flood control; or

(iii) A wet area created by a water delivery system, irrigation, irrigation system, or application of water for irrigation; or

(iv) Wetland on which production of an agricultural commodity is possible as a result of a natural condition, such as drought, and is possible without action by the person that destroys a natural wetland characteristic; or

(v) Converted wetland if SCS has determined that the actions of the person with respect to the production of an agricultural commodity on the converted wetland, individually and in connection with all other similar actions authorized by SCS in the area, would have only a minimal impact on the hydrological and biological aspect of wetlands.

(vi) Wetlands converted by actions of persons other than the person applying for USDA program benefits or any of the person's predecessors in interest after December 23, 1985, if such conversion was not the result of a scheme or device to avoid compliance with this part. Further drainage improvement on such lands is not permitted without loss of eligibility for USDA program benefits, unless the SCS determines under paragraph (d)(1)(v) of this section that further drainage activities applied to such lands would have minimal effect on any remaining wetland values. In applying this paragraph, converted wetlands shall be presumed to have been converted by the person applying for USDA program benefits unless the person can show that the conversion was caused by a third party with whom the person was not associated through a scheme or device as described under § 12.10. In this regard, activities of a water resource district, drainage district or similar entity will be attributed to all persons within the jurisdiction of the district or other entity who are assessed for the activities of the district or entity. Accordingly, where a person's wetlands are converted due to the actions of the district or entity, the person shall be considered to have caused or permitted the drainage.

(2) The conversion of a wetland, for purposes of this section, is considered to have been completed before December 23, 1985 if before that date, the draining, dredging, leveling, filling or other manipulation, (including any activity that resulted in the impairing or reducing the flow, circulation, or reach of water) was applied to the wetland and made the production of an agricultural commodity possible without further manipulation described herein where such production on the wetland would not otherwise have been possible.

(3) Except as provided under paragraph (d)(4) of this section, the conversion of a wetland is considered to have been commenced before December 23, 1985 if before such date:

(i) Any of the activities described in § 12.2(a)(6) were actually started on the wetland; or

(ii) The person applying for benefits has expended or legally committed substantial funds either by entering into a contract for the installation of any of the activities described in § 12.2(a)(6) or by purchasing construction supplies or materials for the primary and direct purpose of converting the wetland; and

(4) Notwithstanding paragraph (d)(3) of this section, for lands which are within the boundaries of a drainage district or similar entity which has the authority to levy an assessment for any of the activities described in § 12.2(a)(6) on wetlands, the conversion of a wetland in conjunction with the activities of such district or other entity is considered to have been commenced before December 23, 1985, if before such date:

(i) A project drainage plan setting forth in detail the planned drainage measures or other works of improvement had been officially adopted by the district or other entity; and

(ii) The district or other entity started installation of the drainage measures, or legally committed substantial funds toward the conversion of wetlands by entering into a contract for the installation of any of the activities described in § 12.2(a)(6) or by purchasing construction supplies and materials for the primary and direct purpose of converting wetland; and

(iii) The person applying for benefits can show that the wetland conversion with which the person is associated was the basis of a financial obligation to the district or other entity prior to December 23, 1985, and that a specific assessment for the project construction or a legal obligation to pay a specific assessment was made as to the person's wetlands prior to December 23, 1985.

(5) The purpose of the determination of conversion commencement made under paragraphs (d)(3) and (d)(4) of this section is to implement the legislative intent that those persons who had actually started conversion of wetland or obligated funds for conversion prior to the effective date of the Act (December 23, 1985) would be allowed to complete the conversion so as to avoid unnecessary economic hardship. Accordingly, the following requirements shall apply to all determinations of commencement made under paragraphs (d)(3) or (d)(4).

(i) All persons who believe they have a wetland or converted wetland for which conversion began but was not completed prior to December 23, 1985, must, before September 19, 1988, request ASCS to make a determination of commencement in order to be considered for exemption under § 12.4(d)(1)(i).

(ii) A person must show that the commenced activity has been actively pursued or the conversion will not be exempt under this section. In this context, "actively pursued" means that efforts toward the completion of the

conversion activity have continued on a regular basis since initiation of the conversion, except for delays due to circumstances beyond the person's control. With regard to wetland conversion by a person that is related to the project activities of a drainage district or other similar entity, the application of "actively pursued" begins when the project works are functional for connection and use by the person.

(iii) Any conversion activity considered to be commenced under this section shall lose its exempt status if not completed on or before January 1, 1995.

(iv) Only those wetlands for which the construction has begun or to which the contract or purchased supplies and materials relate may qualify for a determination of commencement. However, in those circumstances where the conversion of wetland does not meet the specific requirements of this paragraph, the person may request a commencement of conversion determination from the Deputy Administrator, State and County Operations, ASCS (the "Deputy Administrator"), upon a showing that undue economic hardship will result because of substantial financial obligations incurred prior to December 23, 1985, for the primary and direct purpose of converting the wetland.

(e) The provisions of § 12.4 shall not apply to any loan as described in § 12.4(a) that was made before December 23, 1985.

(f) A person shall not be determined to be ineligible in accordance with the provisions of this part for any benefits listed in § 12.4(a) with respect to the production of an agricultural commodity on highly erodible land which was planted before or in any crop year that began before December 23, 1985.

(g) It is the responsibility of the person seeking an exemption under paragraph (d)(1)(i) of this section to provide evidence, such as receipts, crop history data, drawings, plans or similar information, that the conversion was started or completed before December 23, 1985, for purposes of determining whether the conversion is exempt in accordance with this section.

§ 12.6 Administration.

(a) *General.* A determination of ineligibility for benefits in accordance with the provisions of this part shall be made by the agency of the Department to which the person has applied for benefits. All determinations required to be made under the provisions of this part shall be made by the agency responsible for making such determinations, as provided in this section.

(b) *Administration by ASCS.* (1) The provisions of this part which are applicable to ASCS will be administered under the general supervision of the Administrator, ASCS, and shall be carried out in the field in part by State ASC committees (STC) and county ASC committees (COC).

(2) The Deputy Administrator may determine any question arising under the provisions of this part which are applicable to ASCS and may reverse or modify any determination of eligibility with respect to programs administered by ASCS made by an STC or COC or any other ASCS office or ASCS official (except the Administrator) in connection with the provisions of this part.

(3) ASCS shall make the following determination which are required to be made in accordance with this part:

(i) Whether a person produced an agricultural commodity on a particular field as determined under § 12.4(b);

(ii) The establishment of field boundaries as described in § 12.2(a)(13);

(iii) Whether land was planted to an agricultural commodity in any of the years, 1981 through 1985, for the purposes of § 12.5(a)(1);

(iv) Whether to allow a person to exchange certain crop acreage bases (CAB) between CAB's with crops that leave a high residue, if recommended by SCS for inclusion in the conservation plan.

(v) Whether land was set aside, diverted or otherwise not cultivated under a program administered by the Secretary for any crop to reduce production of an agricultural commodity under § 12.5(a)(2);

(vi) Whether the agricultural commodity planted on a particular field was planted before December 23, 1985, or during any crop year which began before December 23, 1985, in accordance with § 12.5(f);

(vii) Whether for the purposes of § 12.9, the production of an agricultural commodity on highly erodible land or converted wetland by a landlord's tenant or sharecropper is required under the terms and conditions of the agreement between the landlord and such tenant or sharecropper and

(viii) Whether the conversion of a particular wetland was commenced before December 23, 1985, for the purposes of § 12.5(d) (3) or (4).

(ix) Whether the conversion of a wetland was caused by a third party under § 12.5(d)(1)(vi).

(4) A representative number of farms selected in accordance with instructions issued by the Deputy Administrator shall be inspected by an authorized representative of ASCS to determine compliance with any requirement specified in this part as a prerequisite for obtaining program benefits.

(5) ASCS will consult with U.S. Fish and Wildlife Service on pending commenced or third party determinations.

(c) *Administration by SCS.* (1) The provisions of this part that are applicable to SCS shall be administered under the general supervision of the Chief of the SCS and carried out in the field by the state conservationist, area conservationist, and district conservationist.

(2) SCS shall make the following determinations which are required to be made in accordance with this part:

(i) Whether land is highly erodible or is a wetland or a converted wetland in accordance with the provisions of this part;

(ii) Whether highly erodible land is predominant on a particular field under § 12.4(b);

(iii) Whether the conservation plan that a person is actively applying is based on the local SCS field office technical guide and is approved by—

(A) The CD, in consultation with local ASC committees and SCS, or

(B) By SCS;

(iv) Whether the conservation system that a person is using has been approved by the CD under § 12.5(b)(3) or, in an area not within a CD, a conservation system approved by the SCS to be adequate for the production of an agricultural commodity on highly erodible land;

(v) Whether production of an agricultural commodity on a wetland is possible as a result of natural conditions and is possible without action by the producer that destroys a natural wetland characteristic; and

(vi) Whether the actions of a person with respect to the production of an agricultural commodity on converted wetland would have only a minimal impact on the hydrological and biological aspects of wetland.

(3) SCS will provide such other technical assistance for implementation of the provisions of this part as is determined to be necessary.

(4) A person may obtain a highly erodible land or wetland determination by making a written request on Form AD 1026. The determination will be made in writing, and a copy will be provided to the person.

(i) A determination of whether or not an area meets the highly erodible land or wetland criteria may be made by the district conservationist based upon existing records or other information and without the need for an on-site determination. This determination will

be made, if practicable, within 15 calendar days after receipt of the written request.

(ii) An on-site determination as to whether an area meets the applicable criteria shall be made by the district conservationist if the person has disagreed with the determination made under paragraph (c)(4)(i) of this section, or if adequate information is not otherwise available to the district conservationist on which to make a determination.

(iii) An on-site determination, where applicable, will be made as soon as possible, but no later than 60 calendar days following a request for such a determination unless site conditions are unfavorable for the evaluation of soils or vegetation in which case the time period may be extended by the district conservationist until site conditions permit an adequate evaluation.

(iv) With regard to wetland determinations, if an area is continuously inundated or saturated for long periods of time during the growing season to such an extent that access by foot to make a determination of predominance of hydric soils or prevalence of hydrophytic vegetation is not feasible, the area will be determined to be a wetland.

(5) Persons who are adversely affected by a determination made under this section and believe that the requirements of this part were improperly applied may appeal, under § 12.12 of this part, any determination by SCS.

(d) *Administration by FmHA.* (1) The provisions of this part which are applicable to FmHA will be administered under the general supervision of the FmHA Administrator through FmHA's State, district, and county offices.

(2) FmHA shall determine whether the proceeds of a farm loan made, insured or guaranteed by FmHA will be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetland.

(e) *Administration by FCIC.* The provisions of this part which are applicable to FCIC will be administered under the general supervision of the Manager, FCIC.

(f) *Administration by ES.* The Extension Service shall coordinate the related information and eduction program for the Department concerning implementation of this rule.

§ 12.7 Certification.

(a) In order for a person to be determined to be eligible for any of the benefits specified in § 12.4:

(1) It must be determined by SCS whether any farm in which the person applying for the benefits has an interest contains highly erodible land, wetland or converted wetland;

(2) The person applying for the benefits must certify in writing on Form AD–1026 that such person will not produce an agricultural commodity on highly erodible land or converted wetland during the crop year in which the person is seeking such benefits, unless such production is exempt, under § 12.5, from the provisions of § 12.4 of this part;

(3) The person applying for a FmHA insured or guranteed farm loan must certify that such person shall not use the proceeds of the loan for a purpose that will contribute to excessive erosion on highly erodible land or to conversion of wetlands to produce an agricultural commodity; and

(4) The person applying for the benefits must authorize and provide representatives of the Department access to all land in which such person has an interest for the purpose of verifying any such certification.

(b) Each agency of the Department shall make all certifications received by such agency and the results of investigations concerning such certifications available to other agencies.

(c) A certification made in accordance with this section does not relieve any person from compliance with the provisions of this part.

§ 12.8 Affiliated persons.

(a) For purposes of this part, the following persons are considered to be "affiliated" and, in addition, the actions of such persons will be considered for the purposes specified in this part to be the actions of the person who has requested benefits from the Department:

(1) The spouse and minor child of such person and/or guardian of such child;

(2) Any corporation in which the person is a stockholder, shareholder, or owner of more than 20 percent interest in such corporation;

(3) Any partnership, joint venture, or other enterprise in which the person has an ownership interest or financial interest; and

(4) Any trust in which the person or any person listed in paragraphs (a)(1) through (a)(3) of this section is a beneficiary or has a financial interest.

(b) If the person who has requested benefits from the Department is a corporation, partnership, or other joint venture, then, for purposes of applying paragraph (a) of this section, any participant or stockholder therein, except for persons with a 20 percent or less share in a corporation, shall also be considered to be the person applying for benefits from the Department.

§ 12.9 Landlords and tenants.

(a) Except as provided in paragraph (b) of this section, the ineligibility of a tenant or sharecropper, for benefits (as determined under § 12.4) shall not cause a landlord to be ineligible for benefits for which the landlord would otherwise be eligible with respect to commodities produced on lands other than those in which the tenant or sharecropper has an interest.

(b) Paragraph (a) of this section shall not be applicable to a landlord if the production of an agricultural commodity on highly erodible land or converted wetland by the landlord's tenant or sharecropper is required under the terms and conditions of the agreement between the landlord and such tenant or sharecropper and such agreement was entered into after December 23, 1985 or if the landlord has acquiesced in such activities by the tenant or sharecropper.

§ 12.10 Scheme or device.

All or any part of the benefits listed in § 12.4 otherwise due a person from the Department may be withheld or required to be refunded if the person adopts or participates in adopting any scheme or device designed to evade, or which has the effect of evading, the provisions of this part. Such acts shall include, but are not limited to, concealing from the Department any information having a bearing on the application of the provisions of this part or submitting false information to the Department or creating entities for the purpose of concealing the interest of a person in a farming operation or to otherwise avoid compliance with the provisions of this part. Such acts shall also include acquiescence in, approval of or assistance to acts which have the effect of, or the purpose of, circumventing these regulations for the production of an agricultural commodity.

§ 12.11 Action based upon advice or action of Department.

The provisions of Part 790 of this Title, as amended, relating to performance based upon the action or advice of a County Comittee (COC) or State Committee (STC) shall be applicable to the provisions of this part.

§ 12.12 Appeals.

Any person who has been or would be denied program benefits in accordance with § 12.4 as the result of any determination made in accordance with the provisions of this part may obtain a review of such determination in

accordance with the administrative appeal procedures of the agency which rendered such determination. Agency appeal procedures are contained in the Code of Federal Regulations as follows: ASCS, 7 CFR Part 780; SCS, 7 CFR Part 614; FmHA, 7 CFR Part 1900, Subpart B; and FCIC, 7 CFR 400.90.

Subpart B—Highly Erodible Land Conservation

§ 12.20 SCS responsibilities regarding highly erodible land.

In implementing the provisions of this part, SCS shall, to the extent practicable:

(a) Develop and maintain criteria for identifying highly erodible lands;

(b) Prepare and make available to the public lists of highly erodible soil map units;

(c) Make soil surveys for purposes of identifying highly erodible land; and

(d) Provide technical guidance to conservation districts which approve conservation plans and systems, in consultation with local county ASC committees and SCS, for the purposes of this part.

§ 12.21 Identification of highly erodible lands criteria.

(a) Soil map units and an erodibility index will be used as the basis for identifying highly erodible land. The erodibility index for a soil is determined by dividing the potential average annual rate of erosion for each soil by its predetermined soil loss tolerance (T) value. The T value represents the maximum annual rate of soil erosion that could occur without causing a decline in long-term productivity.

(1) The potential average annual rate of sheet and rill erosion is estimated by multiplying the following factors of the Universal Soil Loss Equation (USLE):

(i) Rainfall and runoff (R),

(ii) The degree to which the soil resists water erosion (K), and

(iii) The function (LS), which includes the effects of slope length (L) and steepness (S).

(2) The potential average annual rate of wind erosion is estimated by multiplying the following factors of the Wind Erosion Equation (WEQ): Climatic characterization of windspeed and surface soil moisture (C) and the degree to which soil resists wind erosion (I).

(3) The USLE is explained in the U.S. Department of Agriculture Handbook 537, "Predicting Rainfall Erosion Losses." The WEQ is explained in the paper by "Woodruff, N.P. and F.H. Siddaway, 1965. "A Wind Erosion Equation," Soil Science Society of America Proceedings, Vol. 29, No. 5, Pages 602–608. Values for all the factors used in these equations are contained in the SCS field office technical guide and the references which are a part of the guide.

(b) A soil map unit subject to significant erosion by either water or by wind shall be determined to be highly erodible if either the RKLS/T *or* the CI/T value for the map unit equals or exceeds 8.

(c) Whenever a soil map unit description contains a range of a slope length and steepness characteristics that produce a range of LS values which result in RKLS/T quotients both above and below 8, the soil map unit will be entered on the list of highly erodible soil map units as "potentially highly erodible." The final determination of erodibility for an individual field containing these soil map unit delineations will be made by an on-site investigation.

§ 12.22 Highly erodible field determination criteria.

(a) Highly erodible land shall be considered to be predominant on a field if either:

(1) 33.33 percent or more of the total field acreage is identified as soil map units which are highly erodible; or

(2) 50 or more acres in such field are identified as soil map units which are highly erodible.

(b) A person may request the modification of field boundaries for the purpose of excluding highly erodible land from a field. Such a request must be submitted to, and is subject to the approval of, ASCS.

(c) Small areas of noncropland within or adjacent to the boundaries of existing highly erodible crop fields such as abandoned farmsteads, areas around filled or capped wells, rock piles, trees or brush which are converted to cropland are considered to meet the requirement of § 12.5(c) if they are included in an approved conservation plan for the entire highly erodible field.

§ 12.23 Conservation plans and conservation systems.

(a) A conservation plan or a conservation system developed for the purposes of § 12.5(b) will be based upon the SCS field office technical guide, addressing considerations of economic and technical feasibility and other related factors.

(b) Persons who require SCS assistance for the development of a conservation plan or the installation of a conservation system are encouraged to request this assistance well in advance of deadline dates for compliance; otherwise the person may not be able to comply with these provisions and maintain eligibility for USDA program benefits.

(c) Conservation districts approve or disapprove conservation plans or conservation systems after SCS determines that the plans or systems conform to the SCS field office technical guide. If a conservation district fails, without due cause, to act on a request for conservation plan or conservation system approval within 45 days, or if no conservation district exists, SCS will approve or disapprove, as appropriate, the conservation plan or system in question.

(d) A person is considered to be actively applying a conservation plan for purposes of § 12.5(b) if the plan is being applied according to the schedule specified in the plan and the applied practices are properly operated and maintained. It is the responsibility of the person to:

(1) Annually certify that the conservation plan is being actively applied after January 1, 1990 and

(2) Arrange for a revision of the conservation plan with SCS, if changes are made in land use, crop rotation or management, conservation practices, or in the original schedule of practice installation.

(e) Persons who are adversely affected by the determinations made under this subpart and believe that the requirements of this subpart were improperly applied may appeal the decision to SCS under § 12.12.

Subpart C—Wetland Conservation

§ 12.30 SCS responsibilities regarding wetlands.

In carrying out the provisions of this part, SCS shall:

(a) Make available to the public an approved county list of hydric soil map units, which is based upon the National List of Hydric Soils;

(b) Maintain a list of hydrophytic vegetation derived from the National List of Plant Species That Occur in Wetlands;

(c) Consult with the Fish and Wildlife Service on determinations of exemptions made under § 12.5(d)(1) and (d)(2) and on matters relating to the identification of wetland,

(d) Oversee the development and application of criteria to identify hydric soils in consultation with the National Technical Committee for Hydric Soils, and

(e) Consult with the Fish and Wildlife Service and others in developing the National List of Plant Species that Occur in Wetlands and in providing guidance

in applying the lists of hydric soils and plant species to matters concerning wetland and converted wetland.

§ 12.31 Wetland identification criteria.

(a) *Hydric soils.* (1) SCS shall identify hydric soils through the use of published soil maps which reflect soil surveys completed by SCS. If a published soil map is unavailable for a given area, SCS may use unpublished soil maps which were made according to the specifications of the National Cooperative Soil Survey or may conduct an on-site evaluation of the land.

(2) SCS shall determine whether an area of a field or other parcel of land has a predominance of hydric soils that are inundated or saturated as follows:

(i) If a soil map unit has hydric soil as all or part of its name, that soil map unit or portion of the map unit related to the hydric soil shall be determined to have a predominance of hydric soils;

(ii) If a soil map unit is named for a miscellaneous area that meets the criteria for hydric soils (i.e., riverwash, playas, beaches, or water) the soil map unit shall be determined to have a predominance of hydric soils; or

(iii) If a soil map unit contains inclusions of hydric soils, that portion of the soil map unit identified as hydric soil shall be determined to have a predominance of hydric soils.

(3) *List of hydric soils.* (i) Hydric soils are those soils which meet criteria set forth in the publication "Hydric Soils of the United States 1985" which was developed by the National Technical Committee for Hydric Soils and which is incorporated by reference. This publication may be obtained upon request by writing the Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, DC 20013, and is available for inspection at the Office of the Federal Register Information Center, Room 3801, 1100 L Street NW., Washington, DC 20408. Incorporation of this publication by reference was approved by the Director of the Federal Register on June 24, 1986. The materials are incorporated as they exist on the date of the approval and a notice of any change in these materials will be published in the **Federal Register**.

(ii) An official list of hydric soil map units shall be maintained at the local SCS office and shall include—

(A) All soils from the National List of Hydric Soils that can be found in that field office area, and

(B) Any soil map units or areas which the State conservationist determines to meet such hydric soil criteria.

(iii) Any deletions of a hydric soil unit from the hydric soil map unit list must be made according to the established procedure contained in the publication "Hydric Soils of the United States, 1985" for adding or deleting soils from the National List of Hydric Soils.

(b) *Hydrophytic vegetation.* Hydrophytic vegetation consists of plants growing in water or in a substrate that is at least periodically deficient in oxygen during a growing season as a result of excessive water content.

(1) A plant shall be considered to be a plant species that occurs in wetland if such plant is listed in the National List of Plant Species that Occur in Wetlands. The publication may be obtained upon request from the U.S. Fish & Wildlife Service, National Wetland Inventory, Monroe Bldg. Suite 101, 9720 Executive Center Drive, Saint Petersburg, Florida 33702.

(2) For the purposes of the definition of "wetland" in § 12.2(a)(28) of this part, land shall be determined to have a prevalence of hydrophytic vegetation if:

(i) SCS determines through the use of the formula specified in paragraph (b)(3) of this section that under normal circumstances such land supports a prevalence of hydrophytic vegetation. The term "normal circumstances" refers to the soil and hydrologic conditions that are normally present, without regard to whether the vegetation has been removed; or

(ii) In the event the vegetation on such land has been altered or removed, SCS will determine if a prevalence of hydrophytic vegetation typically exists in the local area on the same hydric soil under the same hydrological conditions.

(3) The determination of prevalence of hydrophytic vegetation will be made in accordance with the following provisions:

(i) *Plant classification.* The National List of Plant Species that Occur in Wetlands classifies vascular plant species found in the United States and Puerto Rico into five indicator groups based upon their expected occurrence in wetlands. Obligate species are expected to occur in wetlands more than 99 percent of the time; facultative wet species, 66–69 percent of the time; facultative species, 33–65 percent of the time; facultative upland species, 1–33 percent of the time; and upland species, less than 1 percent of the time.

(ii) *Ecological indices.* The following ecological index values have been assigned the plant indicator groups for use in the formula to determine prevalence:

Indicator group	Ecological index
Obligate	1.
Facultative wet	2.
Facultative	3.
Facultative Upland	4.
Upland	5 (all plants not on the National List of Plant Species That Occur in Wetlands).

(iii) *Specific criteria.* If the area in question has met the criteria for hydric soils that are inundated or saturated, SCS will either visually or through the use of line transects, estimate the frequency of occurrence of plants within the community identified by indicator group to arrive at a prevalence index to indicate whether or not a prevalence of hydrophytic vegetation exists.

(iv) (A) The following formula shall be used to calculate the prevalence index, where:

PI = Prevalence Index.
F = Frequency of Occurrence of Plant Species.
n(1–5) = Ecological Index Values for Indicator Groups.

$$PI = \frac{(1 \times F1) + (2 \times F2) + (3 \times F3) + (4 \times F4) + (5 \times F5)}{(F1 + F2 + F3 + F4 + F5)}$$

(B) A mean prevalence index (PI) value of less than 3.0 shall indicate that the area exhibits a prevalence of hydrophytic vegetation.

(c) *Artificial wetland.* (1) An area shall be considered to be an artificial wetland for the purposes of § 12.5(d)(1)(ii) and (iii) of this part if such area was formerly nonwetland or wetland on which conversion was started or completed before December 23, 1985, but now meets wetland criteria due to the action of man.

(2) Notwithstanding the provisions of paragraph (c)(1) of this section, wetlands which are created in order to mitigate the loss of other wetlands as a result of irrigation, recreation, municipal water, flood control or other similar projects shall not be considered to be artificial wetland for the purposes of § 12.5(d)(1)(ii) and (iii) of this part.

(d) For the purposes of § 12.5(d)(1)(v) of this part, SCS, in consultation with the Fish and Wildlife Service, U.S. Department of the Interior, shall determine whether the effect of any action of a person associated with the production of an agricultural commodity on converted wetland has a minimal effect on the hydrological and biological aspect of wetlands. Such determination shall be based upon an environmental evaluation analyzing the effect of the action on the maintenance of wetland values of the particular wetland under consideration and other related wetlands, and will be made through an on-site evaluation. A request for such determination will be made prior to the beginning of activities that would convert the wetland. If a person has converted a wetland and then seeks a determination that the effect of such conversion on wetland was minimal, the burden will be upon the person to demonstrate to the satisfaction of SCS that the effect was minimal. The production of an agricultural commodity on any portion of a converted wetland in conformance with a minimal effect determination by SCS is exempt under § 12.5(d) of this part. However, any additional action of a person that will change the hydrological or biological characteristics of a wetland for which a minimal effect determination has been made shall be reported to SCS for a determination of whether the effect continues to be minimal. The loss of a minimal effect determination will cause a person who produces an agricultural commodity on the converted wetland after such change in status to be ineligible, under § 12.4, for program benefits.

§ 12.32 Converted wetland identification criteria.

(a) Converted wetland shall be identified by determining whether the wetland was altered so as to meet the definition of converted wetland set forth in § 12.2(a)(6). In making this determination, the following factors are to be considered:

(1) Where hydric soils have been used for production of an agricultural commodity and the drainage or other altering activity is not clearly discernable, SCS will compare the site with other sites containing the same hydric soils in a natural condition to determine if the hydric soils can or cannot be used to produce an agricultural commodity under natural conditions. If the soil on the comparison site could not produce an agricultural commodity under natural conditions, the subject wetland will be considered to be converted wetland.

(2) Where woody hydrophytic vegetation has been removed from hydric soils which permits the production of an agricultural commodity, and wetland conditions have not returned as the result of abandonment under § 12.33(b), the area will be considered to be converted wetland.

(3) A pothole or a playa shall not be determined to be converted wetland despite manipulations that occurred prior to December 23, 1985, if that area continues to meet wetland criteria. Any other wetland area that is seasonally flooded or ponded (surface water is present for extended periods especially early in the growing season even though it may be absent by the end of the season in most years) which has been manipulated prior to December 23, 1985 but otherwise continues to meet wetland criteria, shall not be determined to be converted wetland.

(b) A wetland shall not be considered to be converted if:

(1) Production of an agricultural commodity on such land is possible as a result of a natural condition, such as drought, and

(2) It is determined that the actions of the person producing such agricultural commodity does not permanently alter or destroy natural wetland characteristics. Destruction of herbacaeous hydrophytic vegetation, (*i.e.*, plants other than woody shrubs or trees) as a result of the production of an agricultural commodity shall not be considered as altering or destroying natural wetland characteristic if such vegetation could and has been allowed to return following cessation of the natural condition which made production of the agricultural commodity possible.

§ 12.33 Use of wetland and converted wetland.

(a) The provisions of § 12.32(a)(3) are intended to protect remaining functional values of the wetlands described therein. Persons may continue to farm such wetlands under natural conditions or as they did prior to December 23, 1985. However, no action can be taken to increase effects on the water regime beyond that which existed on such lands on or before December 23, 1985 unless SCS determines the effect on remaining wetland values would be minimal under § 12.5(d)(1)(v).

(b) Unless otherwise provided in this part, the production of an agricultural commodity on wetlands that were converted before, or for which the conversion was commenced before, December 23, 1985 is exempted by law from these regulations for the area which was converted or the minimum area the commenced activity could convert. Maintenance or improvement of these converted wetlands for the production of agricultural commodities are not subject to this rule so long as such actions do not bring additional wetland into the production of an agricultural commodity. Additional wetland means any natural wetland or any converted wetland that has reverted to wetland as the result of abandonment of crop production. Abandonment is the cessation of cropping, management or maintenance operations related to the production of agricultural commodities on converted wetland. Where the cessation of such cropping, management or maintenance operations has occurred, converted wetland is considered to be abandoned unless it is shown that there was no intent to abandon; provided, however, that at the end of five successive years during which there was no crop production, such land shall be determined to be abandoned if the land meets the wetland criteria of § 12.31. Participation in a USDA set-aside, diverted acres, or similar programs shall not be deemed to constitute abandonment.

Signed at Washington, DC, on September 10, 1987.

Peter C. Myers,

Acting Secretary.

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Part IV

Environmental Protection Agency

40 CFR Part 133

Amendment to the Secondary Treatment Regulation; Percent Removal Requirements During Dry Weather Periods for Treatment Works Served by Combined Sewers; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 133

[FRL-3232-4]

Amendment to the Secondary Treatment Regulation; Percent Removal Requirements During Dry Weather Periods for Treatment Works Served by Combined Sewers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed rule amends that portion of the EPA's secondary treatment regulation concerning the percent removal requirements during dry weather periods for treatment works served by combined sewers.

The secondary treatment regulation, originally promulgated in 1973, requires treatment works to meet both concentration-based effluent limitations for five-day biochemical oxygen demand (BOD_5) and total suspended solids (TSS) as well as an 85 percent removal requirement for these pollutants. The percent removal requirement was established to encourage municipalities to correct excessive infiltration and inflow (I/I) in their sewer systems and to prevent intentional dilution of the wastewater. When the regulation was amended in June 1985 to set separate limits for equivalent treatment (i.e., trickling filters and waste stabilization ponds), a 65 percent removal requirement was included for equivalent treatment facilities. Subsequently, in September 1985, the Agency amended the regulation to allow additional flexibility in applying the percent removal requirements. The current regulation allows adjustment of the percent removal requirements during wet and dry weather periods for treatment works served by separate sewers provided that the treatment works meet certain criteria defined in § 133.103(d) "Less Concentrated Influent Wastewater For Separate Sewers." The current regulation also includes a provision authorizing adjustments to the percent removal requirements for treatment works served by combined sewers, but only during wet weather periods (§ 133.103(a)). It does not apply to treatment works served by combined sewers during dry weather periods.

This proposal amends the percent removal requirements to allow adjustments during dry weather periods for treatment works served by combined sewers.

DATES: Written comments on this proposed rule must be submitted by November 16, 1987.

ADDRESSES: Comments on this proposed rule should be addressed to: Lam Lim, Office of Municipal Pollution Control (WH-595), Environmental Protection Agency, Washington, DC 20460, Telephone (202) 382-7371.

The public may inspect the administrative record for this proposed rulemaking and all comments received on it, on business days between 8:00 AM and 4:00 PM at: Public Information Reference Unit (located in the EPA Library), Room 2904, Environmental Protection Agency, 401 M Street, SW., Washington, DC. A reasonable fee will be charged for copying.

FOR FURTHER INFORMATION CONTACT: Lam Lim, Office of Municipal Pollution Control (WH-595), Environmental Protection Agency, Washington, DC 20460, (202) 382-7371.

SUPPLEMENTARY INFORMATION:

A. The EPA's Previous Actions on the Percent Removal Requirements

The Agency included an 85 percent removal requirement in the original secondary treatment regulations promulgated August 17, 1973, for both BOD_5 and TSS. Sections 133.102(a)(3) and 133.102(b)(3) require that the arithmetic mean of the values for effluent samples collected in a period of 30 consecutive days not exceed 15 percent of the arithmetic mean of the values for influent samples collected at approximately the same time during the same period (85 percent removal). In addition, the Agency included a provision in § 133.103(a) of the original secondary treatment regulation allowing adjustment of the 85 percent removal requirement during wet weather periods for treatment works served by combined sewers.

In response to information that in some cases the 85 percent removal requirement resulted in forcing advanced treatment levels on some treatment works with dilute influent wastewater, the Agency, on November 16, 1983, issued a **Federal Register** notice soliciting public comment on a number of options for amending the percent removal requirement (48 FR 52258). Based on the public comments received in response to the notice, the Agency proposed an amendment to the percent removal requirement on September 20, 1984, that would authorize a modification of the percent removal requirement for treatment works served by separate sewers if they demonstrated: (1) That they consistently met their concentration-based limitations; (2) that, to meet the percent removal requirement, the treatment works would have to meet significantly more stringent concentration-based limitations; and (3) that the less concentrated influent wastewater to the treatment works was not a result of excessve infiltration and inflow (49 FR 37010).

During the public comment period, a commenter suggested that the title of the new paragraph established by the amendment (40 CFR 133.103(d)) should clarify that the amendment applies only to treatment works served by separate sewer systems because treatment works served by combined sewers were already covered by an adjustment provision under § 133.103(a). In response to public comments, the Agency modified the title to read "Less Concentrated Influent Wastewaters for Separate Sewers." In addition, the EPA determined that the final amendment should apply to both the 85 and the new 65 percent removal requirements for equivalent treatment. The final amendment was published in the **Federal Register** on June 3, 1985 (50 FR 23282).

B. Challenge to the Final Amendment

On September 16, 1985, the City of New York filed a petition to review the percent removal amendment for separate sewers. *City of New York* v. *Environmental Protection Agency*, No. 85-4142 (2d Cir.). The City of New York, which has combined sewers, pointed out that treatment works served by combined sewers should also be eligible for adjustment of the percent removal requirements during dry weather periods because nonexcessive infiltration can dilute the influent wastewater of treatment works served by combined sewers just as it does for treatment works served by separate sewers.

C. Settlement Agreement

On January 7, 1986, the Agency and the City of New York filed a settlement agreement with the court. In the settlement agreement, the Agency agreed to initiate and take final action on a rulemaking proceeding concerning whether and, if so, how the secondary treatment regulation should be amended to allow the permit issuing authority to establish alternative percentage removal requirements for treatment works served by combined sewer systems during dry weather periods.

The agreement provided that such final Agency action may either be (1) The promulgation of an amendment to the secondary treatment regulation

addressing the percentage removal requirements (during dry weather periods) for treatment works served by combined sewers or (2) a decision, with a written explanation, not to amend the secondary treatment regulation.

D. Background on Adjustment of the Percent Removal Requirement

1. The Percent Removal Requirement

On August 17, 1973, the Administrator of the EPA defined the secondary treatment requirements for treatment works as the achievement of 30 mg/l BOD_5 and 30 mg/l TSS and 85 percent removal of those pollutants on a 30 day average, (40 CFR 133.102 (a) and (b)). The Agency based these limits on what were previously believed to be typical treatment works influent concentrations of 200 mg/l for BOD_5 and TSS. The percent removal requirement was originally established to achieve two basic objectives:

(a) To encourage municipalities to remove excessive infiltration and inflow (I/I) in the sewer systems, and

(b) To prevent intentional dilution of the influent wastewater to meet a concentration limit.

In 1985 the Agency established a 65 percent removal requirement for equivalent treatment which includes trickling filters and waste stabilization ponds.

The percent removal requirements have caused a number of problems for treatment works that receive less concentrated influent wastewater (less than 200 mg/l for BOD_5 and TSS). Those requirements forced many treatment works with less concentrated influent to meet more stringent effluent concentration levels than 30 mg/l BOD_5 and 30 mg/l TSS, even where these values were adequate to protect water quality.

2. Correction of Infiltration and Inflow

Infiltration is presently defined as water other than wastewater that enters a sewer system from the ground through defective pipes, pipe joints, connections, or manholes. Inflow is presently defined as water other than wastewater that enters a sewer system from roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, or street washing. In practice, however, the measurement of "infiltration" encompasses clear water originating from sources such as commercial cooling drainage and area drains (car wash, street and parking lot drains), because it would be difficult and costly to measure flows from those sources separately. The upcoming amendments to the construction grant regulations (40 CFR Part 35, Subpart I) will clarify the definitions of the terms "infiltration" and "inflow", so that they are consistent with actual flow measurement practices.

Under section 201(g)(3) of the Clean Water Act (33 U.S.C. 1281(g)(3)) and EPA's construction grant regulations (40 CFR 35.2005(b)(16) and 35.2120), grants for the construction of treatment works cannot be made unless an applicant has demonstrated that the sewer system is not or will not be subject to "excessive" I/I. For the purposes of EPA's construction grants program, the Agency has defined excessive I/I as quantities of I/I that can be economically eliminated from a sewer system. The determination of excessive I/I stems from the results of a cost-effectiveness analysis that compares the costs of correcting the I/I conditions (plus the costs of transporting and treating the remaining I/I) to the total costs of the alternative-transporting and treating all of the I/I.

Theoretically, the percent removal requirements impose more stringent levels of treatment than the concentration-based limits for BOD_5 and TSS until the municipality corrects the causes of the less concentrated wastewater in the sewer system. This regulatory approach is based on the assumption that a municipality can take corrective measures to reduce I/I that are less costly than providing additional hydraulic capacity in the sewer system and at the treatment plant.

In 1973, the Agency believed that from 70 to 100 percent of the I/I problem could be corrected through cost-effective sewer system rehabilitation. However, subsequent information ("Evaluation of Infiltration/Inflow Program," unpublished draft technical reports, 1979 and 1980) indicated that sewer rehabilitation is far less effective than formerly expected. In fact, cost-effective sewer rehabilitation was found to remove only up to 40 percent of the estimated infiltration. Accordingly, even large expenditures for the correction of sewer leakage could produce only a small ultimate reduction of infiltration. As a result, influent BOD_5 and TSS concentrations have often remained below 200 mg/l even after cost-effective correction of excessive infiltration sources.

3. Expected Influent Concentration Under Allowable I/I Conditions

The Agency has determined that the correction of excessive infiltration is likely to be unsuccessful for sewer systems with a dry weather base flow of up to 120 gallons per capita per day (gpcd). This figure is based on the following typical values: 70 gpcd domestic wastewater flow, 10 gpcd commercial and small industrial wastewater flow, and 40 gpcd nonexcessive infiltration flow. If the domestic and commercial wastewater flows plus infiltration within the sewer system are less than 120 gpcd, the construction grant regulations require no further infiltration correction work. For wet weather periods, no further corrective work is required if the total flow to the treatment plant (i.e., inflow plus wastewater plus infiltration) is less than 275 gpcd, and there are no chronic operational problems related to hydraulic overloading of the treatment works during storm events (e.g., the inflow is not excessive). The 275 gpcd allowance has been incorporated into the construction grant regulations (40 CFR 35.2120) and is based on a May 1984 study entitled "Determination of Excessive/nonexcessive Inflow Rates." It should be noted that the 120 and 275 gpcd figures are only threshold values for determining nonexessive I/I. Construction grant applicants may determine that even higher values if I/I are nonexcessive through case-by-case sewer system evaluation studies (SSES).

E. Treatment Works Served by Combined Sewers

Combined sewers are sewer systems designed to convey stormwater (mostly from street curb inlets and area drains) in addition to domestic sanitary sewage and commercial and small industrial wastewater. During storm events, combined sewer systems are subject to large increases in flow due to either rainwater or snowmelt that enters the system. Combined sewer systems are generally operated to convey the maximum feasible amount of combined wastewater and stormwater to the treatment works. The excess, which is often the larger portion of the flow during storms, is discharged from the system at several overflow points before reaching the treatment plant. The dramatic, storm-related increase in flow which can occur at treatment plants served by combined sewer systems led to the inclusion of § 133.103(a) in the original secondary treatment regulation to allow either adjustment or suspension of the percent removal requirements during wet weather periods.

F. Determination of Nonexcessive Flow in Combined Sewers During Dry Weather Conditions

1. Excessive-Nonexcessive Flow Study

In 1974 the Agency used historical records from water utilities to determine that the average non-consumptive water usage (i.e., water returned to the sewer system) in the United States is approximately 70 gpcd for domestic flows and 10 gpcd for commercial and small industrial flows. These estimates were used for the cost-effectiveness guidelines promulgated by EPA as part of the construction grant regulations (40 CFR Part 35).

The difference between the total baseline treatment works flow used for construction grant funding purposes (120 gpcd) and 80 gpcd (i.e. 70 + 10) is the portion attributable to nonexcessive infiltration (e.g., 40 gpcd). The Agency reviewed data from numerous I/I analyses and sewer system evaluation studies and determined that the typical value for nonexcessive infiltration nationwide is 1500 gallons per day per inch diameter per mile of sewer (gpdim). The 1500 gpdim value was used in the construction grant program (Program Requirements Memorandum 78–10, March 17, 1978) as the threshold value to determine where more extensive sewer system evaluation would be required (i.e., infiltration less than 1500 gpdim was considered nonexcessive and did not require any further sewer system analysis). Using the estimated national averages for pipe diameters and length of pipe per capita, 1500 gpdim converts to 40 gpcd for nonexcessive infiltration.

Using 40 gpcd for nonexcessive infiltration, 10 gpcd for commercial and small industrial flow, and 70 gpcd for domestic flow, the total baseline dry weather flow calculated by the Agency for municipal wastewater treatment plants (i.e., wastewater plus nonexcessive infiltration) equals 120 gpcd (70 + 10 + 40). Data used for this calculation did not distinguish between separate and combined sewer systems and in fact were for both types of systems.

2. Nonexcessive Flow in Separate Sewers

The Agency analyzed § 133.103(d) of the Secondary Treatment Regulation to determine if the language in that section should apply to systems with combined sewers. Section 133.103(d) presently authorizes the permitting authority to substitute either lower percent removal requirements or a mass loading limit for the percent removal requirements for treatment works served by separate sewer systems. The adjustment in the percent removal requirements is allowed if the permittee satisfactorily demonstrates that: (1) The treatment works does or will consistently meet its concentration limitations but can not meet the percent removal requirements due to less concentrated influent wastewater; (2) significantly more stringent concentration limitations than required by the concentration based standards must be met to comply with the percent removal requirements; and (3) the less concentrated influent wastewater does not result from excessive I/I.

The Agency's analysis of § 133.103(d) centered on the provision requiring that the less concentrated influent wastewater not result from excessive I/I. Section 133.103(d) relies on the definition of excessive infiltration in the construction grants regulations (40 CFR 35.2005(b)(16)). According to that definition and the related definitions for nonexcessive I/I, infiltration is nonexcessive if the average dry weather flow to the treatment works (i.e., wastewater plus infiltration) is less than 120 gallon per capita per day (gpcd).

3. Threshold Value for Combined Sewers During Dry Weather Conditions

The Agency believes that the threshold value of 120 gpcd for nonexcessive dry weather base flow should be applied to treatment works served by combined sewers during dry weather conditions for the following reasons. First, as discussed above in Section F.1 ("Excessive-Nonexcessive Flow Study"), the 120 gpcd value was derived in a study that examined both combined and separate sewers. Secondly, the Agency compared the 120 gpcd figure with data from: (1) A 1980 Agency study, "Evaluation of the Infiltration/Inflow Program" (Final Draft Report (EPA–68–01–4913)); and (2) field measurements of wastewater flows developed from sewer system studies conducted by private contractors and submitted to the Agency. These data support the 120 gpcd figure as a valid threshold for either combined or separate sewer systems. The Agency believes, therefore, that the 120 gpcd limit should apply equally to treatment works served by either separate or combined sewers during dry weather. Finally, simply as a practical matter, flow sources and flows in combined sewer systems are similiar to those in separate sewer systems during dry weather conditions.

4. Exclusion From the 120 gpcd Threshold of Industrial Discharges That Cause Interference

Today's proposed amendment provides that a permittee may not obtain a modification of its percent removal requirements if its less concentrated influent is due either to excessive infiltration or clear water industrial discharges or a combination of both. The Agency recently recognized that industrial discharges to municipal sewer systems can hydraulically overload a treatment works and thereby interfere with its ability to effectively treat influent wastewater. (52 FR 1599). If less concentrated influent to a treatment works is caused in whole or in part by clear water industrial discharges, then the Agency expects the treatment works to control such discharges rather than seek a modification of its percent removal requirements. Local sewer ordinances, as directed by the pretreatment regulations (40 CFR part 403; 52 FR 1586), should be enforced to prevent such hydraulic overloading.

The Agency is primarily concerned with clear water industrial discharges. The Agency considers clear water industrial discharges to include, but not be limited to, cooling tower discharges. The exclusion of clear water discharges recognizes that some industrial discharges may not cause wastewater going to a treatment works to be less concentrated. The Agency acknowledges that the limitation on industrial discharges was not included in its 1985 amendment for separate sewer systems. However, the Agency now recognizes these flows as potentially significant contributors to less concentrated wastewaters and, therefore, is proposing to make a special provision for such wastewater in this amendment.

G. Applying the Proposed Amendment

The proposed rule change applies only during dry weather periods for treatment works served by combined sewers. (The provision for separate sewer systems (§ 133.103(d)) remains unchanged. However at the conclusion of this rulemaking on proposed § 133.103(e), EPA expects to make two technical changes in § 133.103(d): (1) To correct the reference to section "102.105(a)(3)", which should read "133.105(a)(3); and (2) to change the phrase "significantly more stringent limitations" in § 133.103(d)(2) to read "significantly more stringent effluent concentrations", which is a clarification of the regulation's original intended

meaning. EPA invites comment on these two anticipated technical amendments.

To obtain an adjustment in the percent removal requirements during dry weather under the proposed rule, treatment works served by combined sewers must satisfy three conditions: (1) The treatment works does, or will, consistently meet its permit effluent concentration limitations, but the percent removal requirements cannot be met due to less concentrated influent wastewater; (2) significantly more stringent effluent concentrations than required by the concentration-based standards must be met to comply with the percent removal requirements; and (3) the less concentrated influent wastewater does not result from either excessive infiltration or industrial discharges to the system.

If the average dry weather base flow (i.e., the total of the wastewater flow plus infiltration) in a combined sewer system is less than the 120 gpcd threshold value, infiltration is assumed to be nonexcessive. However, sewer systems with average dry weather flows greater than 120 gpcd may also have nonexcessive infiltration if this is demonstrated on a case-by-case basis (i.e., the infiltration can not be cost-effectively reduced). A permittee would have the opportunity to demonstrate, on a case-by-case basis, that its combined sewer system is not subject to excessive infiltration even if the average total dry weather flow exceeds the 120 gpcd threshold value.

H. Summary of Proposal

Today's proposed amendment to the secondary treatment regulation adds a new § 133.103(e) entitled "Less Concentrated Influent Wastewater For Combined Sewers During Dry Weather." This change recognizes that treatment works served by combined sewers may receive less concentrated influent wastewater during dry weather periods that is not the result of excessive infiltration or industrial discharges and therefore the percent removal requirements may warrant adjustment. This amendment allows adjustment of the percent removal requirements for those treatment works under certain conditions. The conditions are specified in the amendment.

The new paragraph (e) allows treatment works served by combined sewers an opportunity to request adjustments in the percent removal requirements for dry weather periods. Under the proposed paragraph (e), the Regional Administrator or, if appropriate, the State Director is authorized to substitute for the percent removal requirements either a lower percent figure or a specific mass loading limit (lbs/day) on a case-by-case basis for the values in §§ 133.102(a)(3), 133.102(a)(4)(iii), 133.102(b)(3), 133.105(a)(3), 133.105(e)(4)(iii) provided that the permittee meets the requirements specified in § 133.103(e). Permit adjustments under wet weather conditions for combined sewers are covered under § 133.103(a).

I. Regulatory Reviews

1. Under Executive Order (E.O. 12291), EPA is required to judge whether a regulation is "major" and therefore subject to the regulatory impact analysis requirements of the Order or whether it may follow other development procedures. The Agency has determined that this proposed regulation is not a major rule within the scope of E.O. 12291. This proposed rule was submitted to the Office of Management and Budget (OMB) for review as required under E.O. 12291. Any comments from OMB and any EPA responses are available for public inspection at the location noted in the **ADDRESSES** section.

2. Paperwork Reduction Act. In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., EPA must submit a copy of any proposed rule that contains a collection of information requirements to the Director of OMB for review and approval. The Agency determined that this proposed regulation does not contain information collection requirements.

3. Regulatory Flexibility Act. The Regulatory Flexibility Act, 5 U.S.C. 601 et seq., requires EPA to assess the impact of its regulatory proposals on "small entities." No regulatory flexibility analysis is required, however, where the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The secondary treatment regulation amendment proposed today allows permitting authorities to adjust the percent removal requirements for small communities served by combined sewers. Where requirements are adjusted, the operation and maintenance costs of existing facilities may be reduced. The estimates of the ultimate benefits (i.e., cost reductions) that will accrue to small communities as a result of this amendment are uncertain.

This uncertainty stems largely from insufficient flow data for communities with combined sewer systems. Although quantification of costs and benefits is not possible, the Agency believes that this rulemaking will result in cost savings.

The Agency believes that today's proposed regulation will not result in any significant economic impact on small communities. Accordingly, I hereby certify, pursuant to 5 U.S.C. 605(b), that this proposed amendment will not have a significant impact on a substantial number of small entities.

J. Comments Invited

The Agency invites and encourages comments on any aspect of the proposal set forth in this notice. All comments received within 60 days will be considered in the promulgation of a final rule. For the Agency to evaluate the views expressed, the comments should contain specific data and information to support those views. The Agency is particularly interested in receiving additional data for combined sewer systems that represent typical dry weather flow conditions.

List of Subjects in 40 CFR Part 133

Treatment works, Waste treatment and disposal, Water pollution control.

Dated: September 8, 1987.

Lee M. Thomas,

Administrator.

For the reasons set forth in the preamble, EPA is proposing to amend 40 CFR Part 133 as follows:

PART 133—SECONDARY TREATMENT REGULATION

1. The Authority citation for Part 133 continues to read as follows:

Authority: Secs. 301(b)(1)(B), 304(d)(1), 304(d)(4), 308, and 501 of the Federal Water Pollution Control Act as amended by the Federal Water Pollution Control Act Amendments of 1972, the Clean Water Act of 1977, and the Municipal Wastewater Treatment Construction Grant Amendments of 1981; 33 U.S.C. 1311(b)(1)(B), 1314(d)(1) and (4), 1318, and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217; 95 Stat. 1623, Pub. L. 97–117.

2. Section 133.103 is amended by adding a new paragraph (e) to read as follows:

§ 133.103 Special considerations.

* * * * *

(e) Less concentrated influent wastewater for combined sewers during dry weather. The Regional Administrator or, if appropriate, the State Director is authorized to substitute either a lower percent removal requirement or a mass loading limit for the percent removal requirements set forth in §§ 133.102(a)(3), 133.102(a)(4)(iii), 133.102(b)(3), [133].105(a)(3), 133.105(b)(3) and 133.105(e)(4)(iii) provided that the

permittee satisfactorily demonstrates that: (1) The treatment works is consistently meeting, or will consistently meet, its permit effluent concentration limits, but the percent removal requirements cannot be met due to less concentrated influent wastewater; (2) to meet the percent removal requirements, the treatment works would have to achieve significantly more stringent effluent concentrations than would otherwise be required by the concentration-based standards; and (3) the less concentrated influent wastewater does not result from either excessive infiltration or industrial discharges during dry weather periods. The determination of whether the less concentrated wastewater results from excessive infiltration is discussed in 40 CFR 35.2005(b)(16). If the less concentrated influent wastewater is the result of clear water industrial discharges then the treatment works must control such discharges pursuant to 40 CFR Part 403.

[FR Doc. 87-21491 Filed 9-16-87; 8:45 am]

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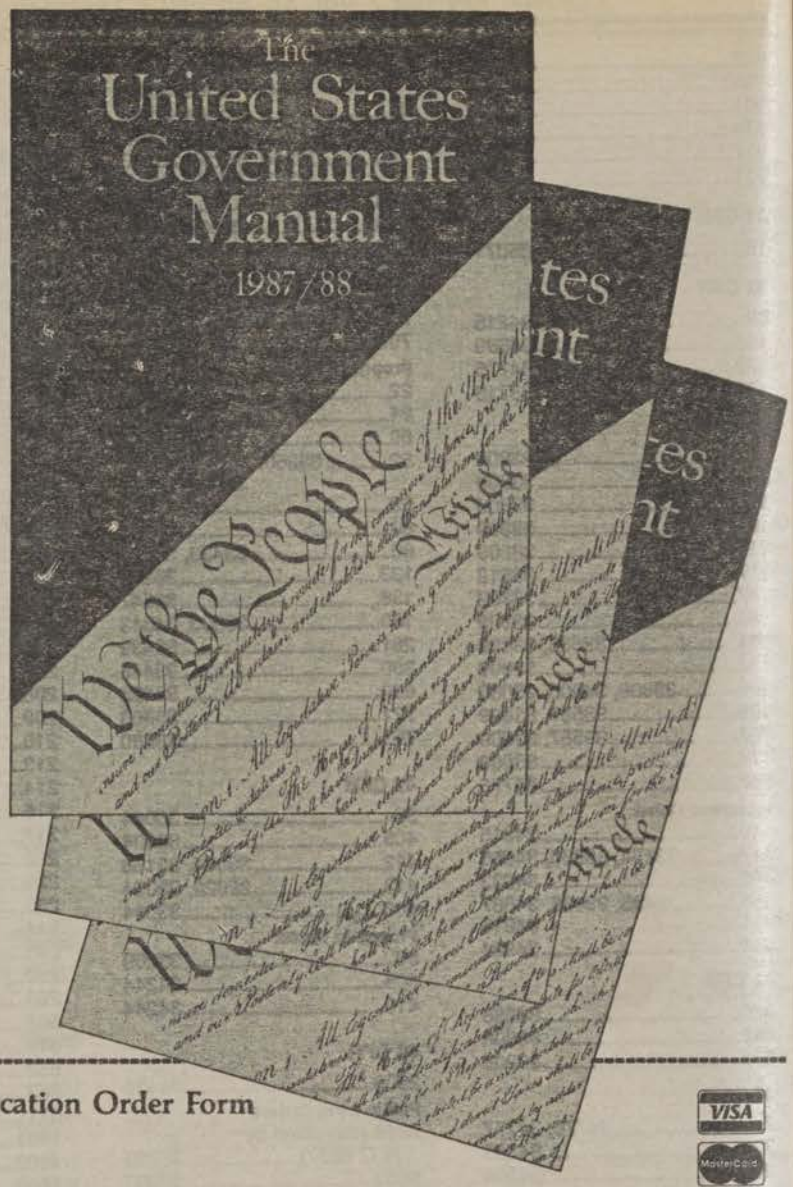

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