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Presidential Documents

Title 3—

The President

Proclamation 5741 of November 12, 1987

National Arts Week, 1987

By the President of the United States of America

A Proclamation

The arts lie at the heart of our Nation and of the heritage we cherish. The freedom we enjoy allows our arts to breathe the spirit of liberty and to ennoble, inspire, and nourish us. During National Arts Week, when we celebrate the arts and thank the artists, patrons, and audiences who give them life, we salute a precious dimension of America.

From our early days as a Nation, countless public-minded citizens have considered support of culture and the arts their joy and their responsibility. Their efforts have brought about an American partnership among individuals, corporations, foundations, and taxpayers that sustains the arts and makes them accessible throughout our land.

Across America the arts are flourishing. Everywhere, individual artists are at work, and symphony orchestras, museums, theaters, dance and opera companies, and folk arts groups are busy in cities and towns alike. As we express our gratitude to these Americans we also renew our commitment to the partnership that supports them and brings their work, and that of the rest of the world, to American audiences—and we reaffirm our devotion to the life of the mind and the soul.

The Congress, by Senate Joint Resolution 154, has designated the period of November 15 through November 22, 1987, as "National Arts Week" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the period of November 15 through November 22, 1987, as National Arts Week. I encourage the people of the United States to observe this period with appropriate ceremonies, programs, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of November, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 87-26516
Filed 11-13-87; 10:30 am]
Billing code 3195-01-M

Rules and Regulations

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 213 and 315

Conversion of Excepted Appointees Occupying Professional and Administrative Career Positions

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations implementing Executive Order 12596, which authorizes noncompetitive conversion of employees occupying professional and administrative career (PAC) positions from excepted appointments at the GS–7 level to competitive appointments at the GS–9 level. Under the regulations, employees who have at least 1 year of satisfactory service at the GS–7 level may be converted to GS–9 positions in PAC occupations for which they qualify.

DATES: Regulations effective July 6, 1987.

FOR FURTHER INFORMATION CONTACT: Tracy Spencer, (202) 632–6817.

SUPPLEMENTARY INFORMATION: E.O. 12596, issued May 7, 1987, provides that an individual who is employed in a PAC position under the Schedule B appointing authority for PAC positions (5 CFR 213.3202(1)) may be converted noncompetitively to a career or a career-conditional appointment at GS–9, "provided the individual meets qualifications and other requirements established by the Director of the Office of Personnel Management, and further provided the individual's performance is determined by the employing agency, in a careful and formal evaluation, to warrant such conversion to GS–9."

On July 6, 1987, OPM published interim regulations in the **Federal Register** (52 FR 25193) setting forth the specific requirements for noncompetitive conversion. During the comment period, we received 11 comments from Federal agencies, employee organizations, and individuals.

Analysis of Comments

Three employee organizations and one individual opposed both use of Schedule B appointments and noncompetitive conversion. These commenters believe that allowing large numbers of employees to enter competitive career fields without having to compete at any level violates the statutory requirement (5 U.S.C. 3304) for open competitive examinations.

We agree that fair and open examinations are critical to the Federal Government, both to ensure that all applicants have an equal chance and to ensure that the Government hires the best people available. Developing examinations that really accomplish these goals demands, however, considerable time for job analysis and validation.

The Professional and Administrative Career Examination (PACE), formerly used to fill many entry level positions, was abolished on August 31, 1982, to comply with a consent decree entered by the U.S. District Court for the District of Columbia in the civil action known as *Luevano* v. *Devine*. The decree required alternative examinations for all occupations previously covered by PACE. The decree further required that the new examinations be specifically related to the requirements of the job(s) they would cover. This effectively prohibits development of a single examination to replace PACE, as was suggested by one commenter.

Because OPM had insufficient resources to fully and properly develop and validate competitive examinations for all occupations formerly filled from PACE, competitive examination for all covered occupations was found to be impracticable. OPM established the Schedule B excepted service appointing authority, 5 CFR 213.3202(1), for use in making external appointments to GS–5/7 PAC positions not covered by alternative competitive examinations. We regard use of the Schedule B appointing authority as an interim measure. However, whether it is replaced for specific occupations in the relatively short term or the relatively long term will depend on the hiring levels in those occupations and resource implications based, in part, on those hiring levels. We have focused our limited resources on developing new, job-specific competitive examinations for those jobs in which the most hires were expected to occur. The positions covered by the seven examinations developed since 1983, along with the nine examinations developed prior to the *Luevano* Consent Decree, account for approximately 55–60 percent of all external hiring in PAC occupations (based on actual hires in the occupations under both Schedule B and PACE and on projected hiring under the new examinations).

For a number of other occupations which do not account for significant hiring individually (75 occupations for which we use Schedule B have less than 20 external hires each in most years) OPM continues to explore ways of developing cost-effective competitive examination(s). We are, for example, reviewing the skills and abilities required for successful performance in various PAC occupations to assess the feasibility of combining several of them under the same examining procedures. In the meantime, however, we believe that the Schedule B authority meets the twin goals of fair and open competition and quality of staffing in the occupations for which we have yet to develop new tests.

Although OPM does not administer an examination centrally under Schedule B, the agencies do themselves examine candidates, comparing their relative knowledge, skills, and abilities, and identify the best applicants for hiring. The selection procedures used by agencies are subject to the same basic legal principles (selection based on merit; no discrimination on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status, or political affiliation) as are competitive examinations. The qualification requirements for Schedule B appointments are the same as for competitive appointments. OPM believes that use of the Schedule B authority as an interim measure is consistent with civil service law. We further believe that implementation of Executive Order 12596 authorizing noncompetitive conversion is consistent with merit principles, in view of a report by the Merit Systems Protection Board that over 98 percent of Schedule B PAC

employees competed successfully in examinations for GS–9 positions.

Federal agencies generally supported the regulations implementing the Executive order. Some suggested editorial changes, which we have incorporated in the final regulations. We did not adopt two substantive agency suggestions, which would have expanded conversion eligibility for individual employees.

A suggestion that conversion be authorized in any GS–9 position for which an employee qualifies, not only in PAC occupations, would exceed the intent of the Executive Order 12596. The Executive order was issued to permit PAC employees to advance up career ladders as they could before abolishment of PACE. The regulations permit conversion in a different PAC occupation than an employee held at GS–7 because rotation among PAC occupations is relatively common in some agencies' career intern programs. However, rotation between PAC occupations and other occupations—many of which have minimum educational requirements—is not common. The work done in PAC positions does not typically provide appropriate qualifying experience for the other occupations. In occupations that were never filled from PACE, competitive examinations exist through which qualified individuals may be appointed at GS–5/7 and thereafter progress up career ladders. To allow candidates to bypass those examinations by initial appointment to a PAC occupation, which is not the normal entry for the other career fields, would be inconsistent with the intent of 5 U.S.C. 3304.

A suggestion that employees be required to have a performance rating of fully successful or better within the year immediately preceding conversion, but not necessarily for the full year, would dilute the importance of performance in establishing eligibility for promotion. The full year requirement was put in the regulations to stress that promotion/conversion is not a right; it must be earned. An employee whose performance has not consistently been at the fully successful level has not demonstrated readiness to take on additional responsibilities. We believe that this performance requirement would be appropriate in any career ladder promotion. We avoided setting a mandatory schedule for conversion to permit agencies to coordinate conversion decisions within normal performance appraisal and career development cycles or to provide for special appraisals if appropriate. We do not believe performance standards for conversion should be lowered to accommodate administrative needs. Although conversion of employees who meet the regulatory requirements is not mandatory, agencies are reminded that conversion should not be denied arbitrarily.

Agencies also suggested that the regulations provide authority for conversion of status quo employees in PAC occupations. Several PAC series have been removed from coverage of the Schedule B authority because new competitive examinations have been developed for them. Employees holding Schedule B appointments when the new registers were established were eligible for noncompetitive conversion under 5 CFR 315.701 if they had at least 6 months of service. Otherwise, they had to be retained in status quo (tenure group III) for 3 years until they qualified for conversion under 5 CFR 315.704. E.O. 12596 covers only conversion of employees who currently hold Schedule B appointments; it does not provide authority for conversion of status quo employees. We have, however, determined that OPM has authority under 5 CFR 315.701 to make an exception to the 6-month prior service requirement in the case of PAC employees through appropriate provision in the Federal Personnel Manual. We are issuing a separate FPM bulletin providing for conversion of status quo employees in PAC occupations under 5 CFR 315.701. The problem will not occur in the future because the Schedule B appointing authority is revised to permit such appointees to continue serving in Schedule B until they can be converted under E.O. 12596.

In addition to comments on the regulations, one agency had a question about the variation to OPM's career tenure regulations granting PAC employees who received competitive appointments to GS–9 positions before issuance of E.O. 12596 tenure credit for service under nontemporary Schedule B appointments, provided the employees' service since their excepted appointments has been substantially continuous. The agency asked whether the variation applies to employees who left the Federal service after issuance of E.O. 12596 but before the effective date of the variation and regulations. It does not. The Executive order, while affording justification for OPM's action, did not authorize the additional service credit. The variation was needed to authorize the tenure credit. The variation covers only employees still in the Federal service on its effective date, July 6, 1987. There was no need to cover former employees because the issue of their tenure group was moot.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions) because they apply only to Federal employees.

List of Subjects in 5 CFR Parts 213 and 315

Administrative practice and procedures, Government employees.

U.S. Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM is adopting its interim regulations (5 CFR 213.3202(l) and 315.710) published at 52 FR 25193 on July 6, 1987, as a final regulation with the following changes:

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

1. The authority citation for Part 315 continues to read as follows:

Authority: 5 U.S.C. 1302, 3301, and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; Sections 315.601 and 315.609 also issued under 22 U.S.C. 3651 and 3652; Sections 315.602 and 315.604 also issued under 5 U.S.C. 1104, Pub. L. 95–454, sec. 3(5); Section 315.605 also issued under E.O. 12034, 43 FR 1917, Jan. 13, 1978; Section 315.606 also issued under E.O. 11219, 3 CFR 1964–1965 Comp., p. 303; Section 315.607 also issued under 22 U.S.C. 2506, 93 Stat. 371, E.O. 12137, 22 U.S.C. 2506, 94 Stat. 2158; Section 315.608 also issued under E.O. 12362, 47 FR 21231; Section 315.610 also issued under 5 U.S.C. 3304(d), Pub. L. 99–586; Section 315.710 also issued under E.O. 12596, 52 FR 17537; Subpart I also issued under 5 U.S.C. 3321, E.O. 12107.

2. In § 315.710(b), the introductory paragraph and paragraphs (1) and (4) are revised to read as follows:

§ 315.710 Professional and administrative career employees serving under Schedule B appointments.

* * * * *

(b) *Eligibility.* An agency may, but is not required to, convert appointments of employees occupying PAC positions under nontemporary appointments effected under § 213.3202(1) of this chapter to career or career-conditional appointments at the GS–9 level in any

position in a PAC occupation when such employees—

(1) Complete at least 1 year of Schedule B service at the GS–7 level that meets the quality of experience requirement for the GS–9 position in which converted (less than full-time service is credited according to the relation it bears to the full-time workweek);

* * * * *

(4) Are converted without a break in service of one workday or more; and

* * * * *

[FR Doc. 87–26335 Filed 11–13–87; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 659]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 659 establishes the quantity of California-Arizona navel oranges that may be shipped to market during the period November 13 through November 19, 1987. Such action is needed to balance the supply of fresh navel oranges with the demand for such oranges during the period specified due to the marketing situation confronting the orange industry.

DATES: Regulation 659 (§ 907.959) is effective for the period November 13 through November 19, 1987.

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

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order 907 (7 CFR Part 907), as amended, regulating the handling of navel oranges grown in Arizona and designated part of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1521–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of the use of volume regulations on small entities as well as larger ones.

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

There are approximately 123 handlers of California-Arizona navel oranges subject to regulation under the navel orange marketing order, and approximately 4,065 producers in California and Arizona. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The great majority of handlers and producers of California-Arizona navel oranges may be classified as small entities.

This action is consistent with the marketing policy for 1987–88 adopted by the Navel Orange Administrative Committee (Committee). The Committee met publicly on November 10, 1987, at Visalia, California, to consider the current and prospective conditions of supply and demand and recommended by an 8 to 2 vote, a quantity of navel oranges deemed advisable to be handled during the specified week. The Committee reports that the market is very good.

Based on consideration of supply and market conditions, and the evaluation of alternatives to the implementation of prorate regulations, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities.

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

List of Subjects in 7 CFR Part 907

Agricultural Marketing Service Marketing Agreements and Orders, California, Arizona, Oranges (navel).

For the reasons set forth in the preamble, 7 CFR Part 907 is amended as follows:

PART 907—[AMENDED]

1. The authority citation for 7 CFR Part 907 continues to read as follows:

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

2. Section 907.959 is added to read as follows:

§ 907.959 Navel Orange Regulation 659.

The quantity of navel oranges grown in California and Arizona which may be handled during the period November 13, 1987, through November 19, 1987, are established as follows:

(a) District 1: 1,397,669 cartons;

(b) District 2: Unlimited cartons;

(c) District 3: 105,000 cartons;

(d) District 4: Unlimited cartons.

Dated: November 12, 1987.

Robert C. Keeney,

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

[FR Doc. 87–26480 Filed 11–13–87; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 910

[Lemon Reg. 587]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 587 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 290,000 cartons during the period November 15 through November 21, 1987. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 587 (§ 910.887) is effective for the period November 15 through November 21, 1987.

FOR FURTHER INFORMATION CONTACT: Raymond C. Martin, Section Head, Volume Control Programs, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-5697.

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

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

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

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

This regulation is consistent with the marketing policy for 1987–88. The committee met publicly on November 10, 1987, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by an 11 to 1 vote, a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the market is good for large sized lemons, fair but improving for smaller sizes.

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

List of Subjects in 7 CFR Part 910

Marketing Agreements and Orders, California, Arizona, Lemons.

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

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

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

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

2. Section 910.887 is added to read as follows:

§ 910.887 Lemon Regulation 587.

The quantity of lemons grown in California and Arizona which may be handled during the period November 15 through November 21, 1987, is established at 290,000 cartons.

Dated: November 12, 1987.

Robert C. Keeney,

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

[FR Doc. 87-26479 Filed 11-13-87; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1942

Fire and Rescue Loans

AGENCY: Farmers Home Administration, Agriculture.

ACTION: Final rule.

SUMMARY: FmHA is revising the regulations for community facility loans by providing a separate regulation for community facility loans for fire or rescue type facilities. This action is necessary because loans for fire or rescue facilities receive high priority for available funds and have proven to be low risk loans that rarely become delinquent. They are usually small and are often made to volunteer groups with limited time for, or experience with, administrative paperwork. Current application processing requirements and procedures, although necessary for other loan purposes, create an unnecessary burden and deterrent for applicants for fire and rescue loans. The intended effect of this action is to make obtaining a loan for fire and rescue facilities easier and faster.

EFFECTIVE DATE: November 16, 1987.

FOR FURTHER INFORMATION CONTACT: Wayne Stansbery, Loan Specialist, Community Facilities Division, Farmers Home Administration, U.S. Department of Agriculture, Room 6308, South Agriculture Building, Washington, DC 20250, telephone 202–382–1490.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291, and has been determined to be "non-major". This action is not likely to result in any of the following:

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

(b) A major increase in costs or prices for consumers, individual industries, Federal, State or local Government agencies, or geographic regions.

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

Intergovernmental Review

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.423, "Community Facility Loans," and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. FmHA conducts intergovernmental consultation in the manner delineated in FmHA Instructions 1901–H and 1940–J.

Environmental Impact

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program". FmHA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Paperwork Burden

The Office of Management and Budget's (OMB) clearance has been obtained for the reporting and recordkeeping requirements which this rule places on the public. The OMB approval number is 0575–0120.

Background

Subpart A of Part 1942 is now the primary regulation for receiving and processing applications, and providing management assistance for loans for water and waste disposal facilities and community facilities. Community Facilities include public safety, health care, and public service facilities varying widely in size and complexity. Historically, more than 35 percent of community facility loans approved have been for public safety, primarily fire and rescue facilities.

Applicants, borrowers, and other members of the public have indicated they feel it takes too long and its too difficult to obtain a community facility loan for fire and rescue facilities. Some of the most deserving potential applicants do not apply because of the processing time, paper work, and other requirements for obtaining a loan. FmHA has developed Subpart C to provide more simple procedures and requirements for use with loans for fire and rescue facilities. FmHA has had experience with fire and rescue loans over a period of ten years and the repayment record has been excellent. We believe this action will maximize the net benefit to society.

The more simplified procedures in Subpart C of Part 1942 include the following:

1. Allows applicants to bypass the preapplication process and file only one application form.
2. Allows more flexibility for District Offices to process applications without waiting for State Office review.
3. Provides more flexibility in security requirements.
4. Reduces appraisal requirements.
5. Allows use of simple cash flow budgets instead of detailed statements of income and expenses.
6. Encourages competitive negotiation for certain procurements.
7. Limits architectural/engineering requirements for certain facilities.
8. Allows District Offices to close loans to nonprofit corporations without OGC review.

Comments

This action was published as a proposed rule for public comment on October 3, 1986, in Volume 51, No. 192, of the **Federal Register**, beginning on page 35359. Six responses were received, with each response containing several comments. All except one of the responses strongly supported the overall action.

One commenter objected to the requirement that applicant organizational documents be reviewed by the Regional Office of General Counsel (OGC) prior to obligation of funds. Another commenter felt that requirements for more participation in loan processing by the State Office and loan closing instructions by OGC should be maintained.

FmHA believes the applicants legal authority to incur the obligations of the proposed loan and operate the facility is a very important legal issue that should be considered early, through OGC review of organizational documents. However, the procedures for closing a loan to a nonprofit corporation are similar to closing other types of loans. District Office staffs and local attorneys should be able to handle the closings.

Required participation in loan processing by State Offices has been reduced to reduce the time required for reviews and for mailing documents back and forth between District and State Offices. State Offices are still required to monitor District Office activities. State Directors may limit the authority of District Directors, thereby increasing State Office participation, whenever it appears necessary.

Proposed loans not secured by taxes, to applicants that cannot show five years of successful financial history, requires National Office review if the loan would exceed $250,000. One commenter suggested the threshold be raised to $500,000. FmHA believes few such loan proposals will exceed $250,000 and those that do should have additional review.

One commenter suggested changing the threshold in paragraphs §§ 1942.126(h)(2) and (h)(3). These paragraphs describe situations in which competitive negotiation is the preferred method of procurement. No change has been made in the statement of preference. However, competitive negotiation may be approved by FmHA for use anytime conditions are not appropriate for formal advertising.

Three commenters indicated confusion or concern about the requirements for engineering work on buildings procured through competitive negotiation. Section 1942.126 has been revised to clarify this issue. The major items revised or clarified are as follows. Final plans and specifications must be prepared by or under the supervision of an architect or engineer licensed in the State where the facility is to be located. The plans and specifications may be provided by the contractor when negotiated procurement is used for construction costing not more than $100,000. When the contractor provides the plans and specifications it will be considered a design/build contract. The contract may omit part of the facility and another architect/engineer will not necessarily be required unless a second contract, exceeding small purchase procedure limits, is needed to complete the facility.

One commenter thought the language in Guide 18, regarding conflict of interest, conflicts with allowing the contractor's engineer to prepare plans and specifications. FmHA believes that normally there will not be a conflict because the contract will be for both design and construction. However, a provision has been inserted to clarify that when Guide 18 is used in connection with a design/build contract the section on conflict of interest may be revised.

List of Subjects in 7 CFR Part 1942

Community development, Community facilities, Loan programs—Housing and community development, Loan security, Rural areas.

Accordingly, Part 1942, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1942—ASSOCIATIONS

1. The authority citation for Part 1942 is revised to read as follows:

Authority: 7 U.S.C. 1989; 16 U.S.C. 1005; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

2. Section 1942.1 is amended by revising paragraph (a) to read as follows:

§ 1942.1 General.

(a) This subpart outlines the policies and procedures for making and processing insured loans for community facilities except fire and rescue facilities. This subpart applies to community facility loans for firm and rescue facilities only as specifically provided for in Subpart C of this Part 1942. The Farmers Home Administration (FmHA) shall cooperate fully with State and local agencies in making loans to assure maximum support to the State strategy for rural development. FmHA State Directors and their staffs shall maintain coordination and liaison with State agency and substate planning districts. Funds allocated for use under this subpart are also for the use of Indian tribes within the State, regardless of whether State development strategies include Indian reservations within the

State's boundaries. Indians residing on such reservations must have equal opportunity to participate in the benefits of these programs as compared with other residents of the State. Federal statutes provide for extending FmHA financial programs without regard to race, color, religion, sex, national origin, marital status, age, or physical/mental handicap. The participants must possess the capacity to enter into legal contracts under State and local statutes.

* * * * *

3. Section 1942.17 is amended by removing paragraph (d)(1)(i)(B)(*1*) by redesignating paragraphs (d)(1)(i)(B) (*2*) through (*8*) as paragraphs (d)(1)(i)(B) (*1*) through (*7*) respectively, and by revising paragraphs (c)(2)(iii)(D)(*2*)(*i*) and (d)(1)(i)(C)(*1*) to read as follows:

§ 1942.17 Community facilities.

* * * * *

(c) * * *

(2) * * *

(iii) * * *

(d) * * *

(*2*) * * *

(*i*) Public safety—10 points. (Examples include police services and fire, rescue and ambulance services as authorized by Subpart C of this Part 1942.

* * * * *

(d) * * *

(1) * * *

(i) * * *

(C) * * *

(*1*) The purchase of major equipment, such as solid waste collection trucks and X-ray machines, which will in themselves provide an essential service to rural residents;

* * * * *

§ 1942.17 [Amended]

4. Section 1942.7 is amended by changing the reference in paragraph (d)(2)(iv) from "paragraph (d)(1)(i)(B)(*5*), (d)(1)(i)(B)(*6*) or (d)(1)(i)(B)(*7*)" to "paragraph (d)(1)(i)(B)(*4*), or (d)(1)(i)(B)(*5*)."

5. Subpart C is added to read as follows:

Subpart C—Fire and Rescue Loans

Sec.

Subpart C—Fire and Rescue Loans

§ 1942.101 General.

This subpart provides the policies and procedures for making and processing insured community facility loans for facilities that will primarily provide fire or rescue services. Community facility loans for other types of facilities are covered in Subpart A of this Part 1942.

§ 1942.102 Nondiscrimination.

(a) Federal statutes provide for extending Farmers Home Administration (FmHA) financial programs without regard to race, color, religion, sex, national origin, marital status, age, or physical/mental handicap. The participants must possess the capacity to enter into legal contracts under State and local statutes.

(b) Indian tribes on Federal and State reservations and other Federally recognized Indian tribes are eligible to apply for and are encouraged to participate in this program. Such tribes might not be subject to State and local laws or jurisdiction. However, any requirements of this subpart that affect applicant eligibility, the adequacy of FmHA's security or the adequacy of service to users of the facility and all other requirements of this subpart must be met.

§ 1942.103 Definitions.

For the purpose of this subpart:

(a) *Construction* means the act of building or putting together a facility that is a part of or physically attached to real estate. This does not include procurement of major equipment even though the equipment may be custom built to meet the owner's requirements.

(b) *Owner* means an applicant or borrower.

(c) *Regional Attorney* or OGC means the head of a Regional Office of General Counsel (OGC).

§ 1942.104 Application processing.

(a) *General.* Prospective applicants should request assistance by filing Form AD–624, "Application for Federal Assistance (for Construction Programs)," with the County or District FmHA Office. When practical, District Directors should meet with prospective applicants before an application is filed to discuss eligibility and FmHA requirements and processing procedures. Throughout loan processing FmHA should confer with applicant officials as needed to ensure that applicant officials understand the current status of the processing of their application, what steps and determinations are necessary and what is required from them. FmHA should assist the applicant as needed and generally try to develop and maintain a cooperative working relationship with the applicant.

(b) *County Office.* The County Office may handle initial inquiries and provide basic information about the program, application forms, and assistance in completing applications. Applications filed in the County Office should be forwarded immediately to the District Office. The applicant should be informed that further processing will be handled by the District Office. When an application is received, the County Office must establish and maintain an information folder.

(c) *District Office.* If the application is filed in the District Office, the District Director must send a copy to the County Supervisor to set up the information file. The District Director must supply information on fire and rescue loan activity within the County Office service area to the County Supervisor at key points throughout the loan making process. As a minimum, the District Director should provide appropriate copies or notice to the County Office when the following actions occur:

(1) Project summary is completed.

(2) Letter of conditions is issued.

(3) Applicant declines to execute Form FmHA 442–46, "Letter of Intent to Meet Conditions."

(4) Applicant is notified of loan approval.

(5) A loan is properly closed.

(6) A construction contract is awarded.

(7) A final inspection is completed.

(d) *Unfavorable decision.* If at any time prior to loan approval it is decided

that favorable action will not be taken on an application, the District Director will notify the applicant in writing of the reasons why the request was not favorably considered. The notification to the applicant will state that a review of this decision by FmHA may be requested by the applicant in accordance with Subpart B of Part 1900 of this chapter. The following statement will also be made on all notifications of adverse action.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income is derived from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

§ 1942.105 Environmental review.

FmHA must conduct and document an environmental review for each proposed project in accordance with Subpart G of Part 1940 of this chapter. The review should be completed as soon as possible after receipt of an application. The loan approving official must determine an adequate environmental review has been completed before requesting an obligation of funds.

§ 1942.106 Intergovernmental review.

(a) Loans under this subpart are subject to intergovernmental review in accordance with Subpart H of Part 1901 and Subpart J of Part 1940 of this chapter.

(b) State intergovernmental review agencies that have selected community facility loans as a program they want to review may not be interested in reviewing proposed loans for fire and rescue facilities. In such cases, the State Director should obtain a letter from the State single point of contact exempting fire and rescue loans from A–95 and intergovernmental consultation review. A copy of the letter should be placed in the case file for each fire and rescue facility application in lieu of completing the intergovernmental review process.

(c) When an application is filed and adverse comments are not expected, the District Director should proceed with application processing pending intergovernmental review. The loan should not be obligated until any required review process has been completed.

(d) Funds allocated for use under this subpart are also for the use of eligible Indian tribes within the State, regardless of whether State development strategies include Indian reservations. Eligible Indian tribes must have equal opportunity to participate in the program as compared with other residents of the State.

§ 1942.107 Priorities.

(a) Eligible applications must be selected for processing in accordance with § 1942.17(c) of Subpart A of this Part 1942.

(b) The District Director must score each eligible application in accordance with § 1942.17(c)(2)(iii) of Subpart A of this Part 1942. The District Director must then notify the State Director of the score, proposed loan amount, and other pertinent data. The State Director should determine as soon as possible if the project has sufficient priority for further processing and notify the District Director. Normally, this consultation should be handled by telephone and documented in the running record.

(c) Applicants who appear eligible but do not have the priority necessary for further consideration at this time should be notified that funds are not available, requested to advise whether they wish to have their application maintained for future consideration and given the following notice:

You are advised against incurring obligations which would limit the range of alternatives to be considered, or which cannot be fulfilled without FmHA funds until the funds are actually made available. Therefore, you should refrain from such actions as initiating engineering and legal work, taking actions which would have an adverse effect on the environment, taking options on land rights, developing detailed plans and specifications, or inviting construction bids until notified by Farmers Home Administration (FmHA) to proceed.

§ 1942.108 Application docket preparation and review.

(a) *Guides.* Application dockets should be developed in accordance with § 1942.2(c) of Subpart A of this Part 1942.

(b) *Project summary.* The District Director should complete the project summary using Form FmHA 1942–43, "Project Summary-Community Facilities (Other Than Utility-Type Projects)." Comments by the State Architect/Engineer and program chief may be omitted unless the District Director or State Director requests their review. Form FmHA 442–14, "Association Project Fund Analysis," and a budget or cash flow projection should be completed and attached.

(c) *Budgets.* All applicants must complete Form FmHA 442–7, "Operating Budget," except as provided in this paragraph. Applicants with annual incomes not exceeding $100,000 may, with concurrence of the District Director, use Form FmHA 1942–52, "Cash Flow Projection," instead of Form FmHA 442–7. Projections should be provided for the current year and each year thereafter until the facility is expected to have been in operation for a full year and a full annual installment paid on the loan.

(d) *Letter of conditions.* The District Director should prepare and issue a letter of conditions in accordance with § 1942.5 (a)(1) and (c) of Subpart A of this Part 1942.

(e) *Organizational review.* As early in the application process as practical the District Director should obtain copies of organization documents from each applicant and forward them through the State Office to the Regional Attorney for review and comments. The Regional Attorney's comments should be received and considered before obligation of funds.

(f) *National Office review.* Applications that require National Office review will be submitted in accordance with § 1942.5(b) of Subpart A of this Part 1942.

(g) *State Office review.* The State Office must monitor fire and rescue loan making and servicing and provide guidance, assistance, and training as necessary to ensure the activities are accomplished in an orderly manner consistent with FmHA regulations. The District Director should request advice and assistance from the State Office as needed. The State Director may require all or part of a specific application docket to be submitted to the State Office for review at any time. The State Director may determine one or more District Office staffs do not have adequate training and expertise to routinely complete application dockets without State Office review. In such cases, the State Director should establish guidelines by memorandum or by State supplement to this subpart for the necessary State Office reviews.

(h) *Loan approval and fund obligation.* Loans must be approved and obligated in accordance with § 1942.5(d) of Subpart A of this Part 1942 and Subpart A of Part 1901 of this chapter.

§§ 1942.109–1942.110 [Reserved]

§§ 1942.111 Applicant eligibility.

(a) *General.* Loans under this subpart are subject to the provisions of § 1942.17 (b) of Subpart A of this Part 1942.

(b) *Credit elsewhere determinations.* The District Director must determine whether financing from commercial sources at reasonable rates and terms is available. If credit elsewhere is

indicated, the District Director should inform the applicant and recommend the applicant apply to commercial sources for financing. To provide a basis for referral of only those applicants who may be able to finance projects through commercial sources District Directors should maintain liaison with representatives of lenders in the district. The State Director should keep District Directors informed regarding lenders outside the district that might make loans in the district. District Directors should maintain criteria for determining applications that should be referred to commercial lenders and maintain a list of lender representatives interested in receiving such referrals.

(c) *Public use.* Loans under this subpart are subject to the provisions of § 1942.17(e) of Subpart A of this Part 1942.

§ 1942.112 Eligible loan purposes.

(a) Funds may be used:

(1) To construct, enlarge, extend or otherwise improve essential community facilities primarily providing fire or rescue services primarily to rural residents. "Otherwise improve" includes but is not limited to the following:

(i) The purchase of major equipment, such as fire trucks and ambulances, which will, in themselves, provide an essential service to rural residents.

(ii) The purchase of existing facilities when it is necessary either to improve or to prevent a loss of service.

(2) To pay the following expenses, but only when such expenses are a necessary part of a loan to finance facilities authorized in paragraph (a)(1) of this section:

(i) Reasonable fees and costs such as legal, engineering, architectural, fiscal advisory, recording, environmental impact analyses, archaeological surveys and possible salvage or other mitigation measures, planning, establishing or acquiring rights.

(ii) Interest on loans until the facility is self-supporting but not for more than 3 years unless a longer period is approved by the National Office; interest on loans secured by general obligation bonds until tax revenues are available for payment, but not for more than 2 years unless a longer period is approved by the National Office; and interest on interim financing, including interest charges on interim financing from sources other than FmHA.

(iii) Costs of acquiring interest in land, rights such as water rights, leases, permits, rights-of-way, and other evidence of land or water control necessary for development of the facility.

(iv) Purchasing or renting equipment necessary to install, maintain, extend, protect, operate, or utilize facilities.

(v) Initial operating expenses for a period ordinarily not exceeding 1 year when the borrower is unable to pay such expenses.

(vi) Refinancing debts incurred by, or on behalf of, a community when all of the following conditions exist:

(A) The debts being refinanced are a secondary part of the total loan;

(B) The debts are incurred for the facility or service being financed or any part thereof; and

(C) Arrangements cannot be made with the creditors to extend or modify the terms of the debts so that a sound basis will exist for making a loan.

(3) To pay obligations for construction or procurement incurred before loan approval. Construction work or procurement actions should not be started and obligations for such work or materials should not be incurred before the loan is approved. However, if there are compelling reasons for proceeding with construction or procurement before loan approval, applicants may request FmHA approval to pay such obligations. Such requests may be approved if FmHA determines that:

(i) Compelling reasons exist for incurring obligations before loan approval; and

(ii) The obligations will be incurred for authorized loan purposes; and

(iii) Contract documents have been approved by FmHA; and

(iv) All environmental requirements applicable to FmHA and the applicant have been met; and

(v) The applicant has the legal authority to incur the obligations at the time proposed, and payment of the debts will remove any basis for any mechanic, material or other liens that may attach to the security property. FmHA may authorize payment of such obligations at the time of loan closing. FmHA's authorization to pay such obligations, however, is on the condition that it is not committed to make the loan; it assumes no responsibility for any obligations incurred by the applicant; and the applicant must subsequently meet all loan approval requirements. The applicant's request and FmHA authorization for paying such obligations shall be in writing. If construction or procurement is started without FmHA approval, post approval in accordance with this section may be considered.

(b) Funds may not be used to finance:

(1) Facilities which are not modest in size, design, and cost.

(2) Loan finder's fees.

(3) Projects located within the Coastal Barriers Resource system that do not qualify for an exception as defined in section 6 of the Coastal Barriers Resource Act, Pub. L. 97–348.

§ 1942.113 Rates and terms.

Rates and terms for loans under this subpart are as set out in § 1942.17(f) of Subpart A of this Part 1942.

§ 1942.114 Security.

Specific requirements for security for each loan will be included in the letter of conditions. Loans must be secured by the best security position practicable, in a manner which will adequately protect the interest of FmHA during the repayment period of the loan, and in accordance with the following:

(a) Security must include one of the following:

(1) A pledge of revenue and a lien on all real estate and major equipment purchased or developed with the FmHA loan; or

(2) General obligation bonds or bonds pledging other taxes.

(b) Additional security may be required as determined necessary by the loan approval official. In determining the need for additional security the loan approval official should carefully consider:

(1) The estimated market value of real estate and equipment security.

(2) The adequacy and dependability of the applicant's revenues, based on the applicant's financial records, the project financial feasibility report, and the project budgets.

(3) The degree of community commitment to the project, as evidenced by items such as active broad based membership, aggressive leadership, broad based fund drives, or contributions by local public bodies.

(c) Additional security may include, but is not limited to, the following:

(1) Liens on additional real estate or equipments.

(2) A pledge of revenues from additional sources.

(3) An assignment of assured income in accordance with § 1942.17(g)(3)(iii)(A)(*1*) of Subpart A of this Part 1942.

(d) Review and approval or concurrence in the State Office is required if the security will not include a pledge of taxes and the applicant cannot provide evidence of the financially successful operation of a similar facility for the 5 years immediately prior to loan application.

(e) Review and concurrence in the National Office is required if the security will not include a pledge of

taxes, the applicant cannot provide evidence of the financially successful operation of a similar facility for the 5 years immediately prior to loan application, and the amount of the loan will exceed $250,000.

(f) Loans under this subpart are subject to the provisions of § 1942.17(g)(1) of Subpart A of this Part 1942, regarding security for projects utilizing joint financing.

§ 1942.115 Reasonable project costs.

Applicants are responsible for determining that prices paid for property rights, construction, equipment, and other project development are reasonable and fair. FmHA may require an appraisal by an independent appraiser or FmHA employee.

§ 1942.116 Economic feasibility requirements.

All projects financed under this section must be based on taxes, assessments, revenues, fees, or other satisfactory sources of revenues in an amount sufficient to provide for facility operation and maintenance, a reasonable reserve, and debt payment. An overall review of the applicant's financial status, including a review of all assets and liabilities, will be a part of the docket review process by the FmHA staff and approval official. All applicants will be expected to provide a financial feasibility report. These financial feasibility reports will normally be:

(a) Included as part of the preliminary engineer/architectural report using Guide 6 to Subpart A of this Part 1942 (available in any FmHA Office), or

(b) Prepared by the applicant using Form FmHA 1942–54, "Applicant's Feasibility Report."

§ 1942.117 General requirements.

(a) *Reserve requirements.* Loans under this subpart are subject to the provisions of § 1942.17 (i) of Subpart A of this Part 1942.

(b) *Membership authorization.* The membership of organizations other than public bodies must authorize the project and its financing except the District Director may, with the concurrence of the State Director (with advice of OGC as needed), accept the loan resolution without such membership authorization when State statutes and the organization charter and bylaws do not require such authorization.

(c) *Insurance and bonding.* Loans under this subpart are subject to the provisions of § 1942.17(j)(3) of Subpart A of this Part 1942.

(d) *Acquisition of land and rights.* Loans under this subpart are subject to the provisions of § 1942.17(j)(4) of Subpart A of this Part 1942.

(e) *Lease agreements.* Loans under this subpart are subject to the provisions of § 1942.17(j)(5) of Subpart A of this Part 1942.

(f) *Notes and bonds.* Loans under this subpart are subject to the provisions of § 1942.17(j)(6) and § 1942.19 of Subpart A of this Part 1942.

(g) *Public Information.* Loans under this subpart are subject to the provisions of § 1942.17 (j)(9) of Subpart A of this Part 1942.

(h) *Joint funding.* Loans under this subpart are subject to the provisions of § 1942.2 (e) and § 1942.17 (j)(11) of Subpart A of this Part 1942.

§ 1942.118 Other Federal, State, and local requirements.

(a) Loans under this subpart are subject to the provisions of § 1942.17 (k) of Subpart A of this Part 1942.

(b) An initial compliance review should be completed under Subpart E of Part 1901 of this chapter.

§ 1942.119 Professional services and borrower contracts.

(a) Loans under this subpart are subject to the provisions of § 1942.17 (l) of Subpart A of this Part 1942.

(b) The District Director will, with assistance as necessary by the State Director and OGC, concur in agreements between borrowers and third parties such as contracts for professional and technical services. The State Director may require State Office review of such documents in accordance with § 1942.108 (g) of this subpart. State Directors are expected to work closely with representatives of engineering and architectural societies, bar associations, commercial lenders, accountant associations, and others in developing standard forms of agreements, where needed, and other matters to expedite application processing, minimize referrals to OGC, and resolve problems which may arise. Standard forms should be reviewed by and approved by OGC.

§§ 1942.120–1942.121 [Reserved]

§ 1942.122 Actions prior to loan closing and start of construction.

(a) *Excess FmHA loan funds.* Loans under this subpart are subject to the provisions of § 1942.17 (n)(1) of Subpart A of this Part 1942.

(b) *Loan resolutions.* Loans under this subpart are subject to the provisions of § 1942.17 (n)(2) of Subpart A of this Part 1942.

(c) *Interim financing.* Loans under this subpart are subject to the provisions of § 1942.17 (n)(3) of Subpart A of this Part 1942.

(d) *Applicant contribution.* Loans under this subpart are subject to the provisions of § 1942.17 (n)(5) of Subpart A of this Part 1942 this chapter.

(e) *Evidence of and disbursement of other funds.* Loans under this subpart are subject to the provisions of § 1942.17 (n)(6) of Subpart A of this Part 1942.

(f) *Assurance agreement.* All applicants must execute Form FmHA 400–4, "Assurance Agreement," at or before loan closing.

§ 1942.123 Loan closing.

(a) *Ordering loan checks.* Checks will not be ordered until:

(1) Form FmHA 440–57, "Acknowledgement of Obligated Funds/Check Request," has been received from the Finance Office.

(2) The applicant has complied with approval conditions and any closing instructions, except for those actions which are to be completed on the date of loan closing or subsequent thereto.

(3) The applicant is ready to start construction or funds are needed to pay interim financing obligations.

(b) *Public bodies and Indian tribes.* (1) After loan approval the completed docket will be reviewed by the State Director. The information required by OGC will be transmitted to OGC with a request for closing instructions. Upon receipt of the closing instructions from OGC, the State Director will forward them along with any appropriate instructions to the District Director. Upon receipt of closing instructions, the District Director will discuss with the applicant and its architect or engineer, attorney, and other appropriate representatives, the requirements contained therein and any actions necessary to proceed with closing.

(2) Loans will be closed in accordance with the closing instructions issued by OGC and § 1942.19 of Subpart A of this Part 1942.

(c) *Organizations other than public bodies and Indian tribes.* District Directors are authorized to close loans to organizations other than public bodies and Indian tribes without closing instructions from OGC. State Directors, in consultation with OGC, should develop standard closing procedures and forms as needed. Assistance with loan closing and a certification regarding the validity of the note and mortgage or other debt instruments should be provided by the applicant's attorney. Appropriate title opinion or title insurance is required as provided in § 1942.17 (j)(4)(i)(B) of Subpart A of this Part 1942.

(d) *Authority to execute, file, and record legal instruments.* District Office

employees are authorized to execute and file or record any legal instruments necessary to obtain or preserve security for loans. This includes, as appropriate, mortgages and other lien instruments, as well as affidavits, acknowledgements, and other certificates.

(e) *Mortgages.* Unless otherwise required by State law or unless an exception is approved by the State Director with advice of the OGC, only one mortgage will be taken even though the indebtedness is to be evidenced by more than one instrument. The real estate or chattel mortgages or security instruments will be delivered to the recording office for recordation or filing, as appropriate. A copy of such instruments will be delivered to the borrower. The original instrument, if returnable after recording or filing, will be retained in the borrower's case folder.

(f) *Notes and bonds.* When the debt instrument is a note or single instrument bond fully registered as to principal and interest a conformed copy will be sent to the Finance Office immediately after loan closing and the original instrument will be stored in the District Office. When other types of bonds are used, the original bond(s) will be forwarded to the Finance Office immediately after loan closing.

(g) *Disposition of title evidence.* All title evidence other than the opinion of title and mortgage title insurance policy, will be returned to the borrower when the loan has been closed.

(h) *Multiple advances.* When temporary paper, such as bond anticipation notes or interim receipts, is used to conform with the multiple advance requirement, the original temporary paper will be forwarded to the Finance Office after each advance is made to the borrower. The borrower's case number will be entered in the upper right-hand corner of such paper by the Distict Office. The permanent debt instrument(s) should be forwarded to the Finance Office as soon as possible after the last advance is made, except that for notes and single instrument bonds fully registered as to principal and interest the original will be retained in the District Office and a copy will be forwarded to the Finance Office. The following actions will be taken prior to issuance of the permanent instruments:

(1) The Finance Office will be notified of the anticipated date for the retirement of the interim instruments and the issuance of permanent instruments of debt.

(2) The Finance Office will prepare a statement of account including accrued interest through the proposed date of retirement and also show the daily interest accrual. The statement of account and the interim financing instruments will be forwarded to the District Director.

(3) The District Director will collect interest through the actual date of the retirement and obtain the permanent instrument(s) of debt in exchange for the interim financing instruments. The permanent instruments and the cash collection will be forwarded to the Finance Office immediately, except that for notes and single instrument bonds fully registered as to principal and interest the original will be retained in the District Office and a copy will be forwarded to the Finance Office. In developing the permanent instruments, the sequence of preference set out § 1942.19(e) of Subpart A of this Part 1942 will be followed.

(i) *Bond registration record.* Form FmHA 442–28, "Bond Registration Book," may be used as a guide to assist borrowers in the preparation of a bond registration book in those cases where a registration book is required and a book is not provided in connection with the printing of the bonds.

(j) *Loan checks.* Whenever a loan check is received, lost, or destroyed, the District Director will take the appropriate actions outlined in FmHA Instruction 102.1 (available in any FmHA office). Checks which cannot be delivered within a reasonable amount of time (no more than 20 calendar days) will be handled in accordance with FmHA Instruction 102.1 (available in any FmHA office.)

(k) *Safeguarding bond shipments.* FmHA personnel will follow the procedures for safeguarding mailings and deliveries of bonds and coupons outlined in FmHA Instruction 2018–E (available in any FmHA office), whenever they mail or deliver these items.

(l) *Review of loan closing.* When the loan has been closed, the District Director will submit the completed loan closing documents and a statement showing what was done in closing the loan to the State Director. The State Director will review the documents and the District Director's statement to determine whether the transaction was closed properly. For loans to public bodies or Indian tribes the State Director will forward all documents, along with a statement that all administrative requirements have been met, to the Regional Attorney. The Regional Attorney will review the submitted material to determine whether all legal requirements have been met. The Regional Attorney should review FmHA standard forms only for proper execution, unless the State Director brings attention to specific questions. Facility development should not be held up pending receipt of the Regional Attorney opinion. When the review of the State Director has been completed, and for public bodies and Indian tribes the Regional Attorney's opinion has been received, the State Director must advise the District Director of any deficiencies that must be corrected and return all material that was submitted for review.

(m) *Loan cancellation.* Loans under this subpart are subject to the provisions of § 1942.12 of Subpart A of this Part 1942.

§§ 1942.124—1942.125 [Reserved]

§ 1942.126 Planning, bidding, contracting, constructing, procuring.

(a) *General.* This section provides procedures and requirements for planning, bidding, contracting, constructing and procuring facilities financed under this subpart. These procedures do not relieve the owner of contractual obligations that arise from procurement of services.

(b) *Technical services.* Owners are responsbile for providing the engineering or architectural services necessary for planning, designing, bidding, contracting, inspecting and constructing their facilities. Services may be provided by the owner's "in-house" engineer or architect or through contract, subject to FmHA concurrence. Architects and engineers must be licensed in the State where the facility is to be located.

(1) *Preliminary reports.* A preliminary architectural or engineering report conforming with customary professional standards is required for all construction, except that FmHA may waive the requirement for a preliminary architectural/engineering report or accept a brief report if the cost of the construction does not exceed $100,000. Guide 6 to Subpart A of this Part 1942 (available in any FmHA office) may be used.

(2) *Final reports.* Detailed final plans and specifications are required for all construction and must receive FmHA concurrence. When negotiated procurement is used for construction costing not more than $100,000 the final plans and specifications may be provided by the contractor who submits the successful proposal. The plans and specifications must be prepared by or under the supervision of an architect or engineer who is licensed in the State where the facility is to be located and should include all materials and work to

be provided under the contract. Some work and material may be omitted from the contract provided the owner furnishes detailed cost estimates for whatever is needed to fully complete the facility and will complete the facility in accordance with paragraph (e) of this section and the small purchase procedures set out in § 1942.18(k)(1) of Subpart A of this Part 1942. In such cases, FmHA may determine that it is not necessary to require the applicant to hire a consulting architect/engineer; however, if a second contract that does not qualify for small purchase procedures is needed to complete the facility, the owner must provide for an architect/engineer to design the entire facility. When the contractor provides the plans and specifications, the contract will be considered a design/build procurement method under § 1942.18(1) of Subpart A of this Part 1942.

(3) *Major equipment.* An architect/engineer is not required for major equipment if FmHA determines the owner has the ability to develop an adequate request for proposal and evaluate the proposals received or can obtain adequate assistance from other sources, such as State or Federal agencies or trade associations.

(c) *Design policies.* Facilities financed by FmHA must be designed and constructed in accordance with sound engineering and architectural practices, and must meet the requirements of Federal, State and local agencies. All facilities intended for or accessible to the public or in which physically handicapped persons may be employed or reside must be developed in compliance with the Architectural Barriers Act of 1968 (Pub. L. 90–480) as implemented by the General Services Administration regulations 41 CFR 101–19.6 and section 504 of the Rehabilitation Act of 1973 (Pub. L. 93–112) as implemented by 7 CFR Parts 15 and 15b.

(d) *Construction contracts.* Contract documents must be sufficiently descriptive and legally binding to accomplish the work as economically and expeditiously as possible.

(1) *Standard construction contract documents.* When standard construction contract documents available from FmHA are used, or when the amount of the contract does not exceed $100,000, it will normally not be necessary for the Regional Attorney to perform a detailed legal review. If construction contract documents used are not in the format of guide forms approved by FmHA, and the contract amount exceeds $100,000, the Regonal Attorney must review the documents before their use.

(2) *Contract review and approval.* The owner's attorney will review executed contract documents, including performance and payment bonds, and certify that they are adequate, legal and binding, and that the persons executing the documents have been authorized to do so. The contract documents, bid bonds, and bid tabulation sheets will be forwarded to FmHA for approval prior to awarding. All contracts will contain a provision that they are not in full force and effect until they have been approved by FmHA. The FmHA District Director is responsible for approving construction contracts with advice and guidance of the State Director and Regional Attorney when necessary.

(3) *Separate contracts.* Arrangements which split responsibility of contractors (separate contracts for labor and material, extensive subcontracting and multiplicity of small contracts on the same job) should be avoided whenever it is practical to do so. Contracts may be awarded to suppliers or manufacturers for furnishing and installing certain items which have been designed by the manufacturer and delivered to the job site in a finished or semifinished state such as prefabricated buildings. Contracts may also be awarded for material delivered to the job site and installed by a patented process or method.

(e) *Performing construction.* Owners are encouraged to accomplish construction through contracts with recognized contractors. Owners may accomplish construction by using their own personnel and equipment provided the owners possess the necessary skills, abilities and resources to perform the work and provided a licensed engineer or architect prepares design drawings and specifications and inspection is provided in accordance with paragraph (l)(3) of this section.

(f) *Owner's contractual responsibility.* Loans under this subpart are subject to the provisions of § 1942.18(i) of Subpart A of this Part 1942.

(g) *Owner's Procurement regulations.* Loans under this subpart are subject to the provisions of § 1942.18(j) of Subpart A of this Part 1942.

(h) *Procurement methods.* Unless the FmHA National Office gives prior written approval of another method, procurement must be made by one of the following methods:

(1) Small purchase procedures as provided in § 1942.18(k)(1) of Subpart A of this Part 1942.

(2) Competitive sealed bids as provided in § 1942.18(k)(2) of Subpart A of this Part 1942. Competitive sealed bids is the preferred procurement method of construction projects, except for buildings costing $100,000 or less when the owner desires to use a "preengineered" or "packaged" building.

(3) Competitive negotiation as provided in § 1942.18(k)(3) of Subpart A of this Part 1942. Competitive negotiation is the preferred procurement method of buildings not exceeding $100,000 in cost when the owner desires to use a "pre-engineered" or "packaged" building and for major equipment.

(4) Noncompetitive negotiation as provided in § 1942.18(k)(4) of Subpart A of this Part 1942.

(i) *Contracting methods.* Loans under this subpart are subject to the provisions of § 1942.18(1) of Subpart A of this Part 1942.

(j) *Contracts awarded prior to preapplications.* Loans under this subpart are subject to the provisions of § 1942.18(m) of Subpart A of this Part 1942.

(k) *Construction Contract provisions.* Construction contracts for loans under this subpart are subject to the provisions of § 1942.18(n) of Subpart A of this Part 1942. Construction contracts for loans under this subpart are also subject to the provisions of § 1901.205 of Subpart E of Part 1901 of this chapter, regarding nondiscrimination in construction, except that guides 18 and 17 or 19 to Subpart A of this Part 1942 of this chapter will normally be used instead of Form FmHA 1924–5, "Invitation for Bid (Construction Contract)," and Form FmHA 1924–6, "Construction Contract." When Guide 18 is used with a design/build type contract, section 4, "Conflict of Interest," may need revision.

(l) *Construction contract administration.* Owners shall be responsible for maintaining a contract administration system to monitor the contractors' performance and compliance with the terms, conditions, and specifications of the contracts.

(1) *Preconstruction conference.* Prior to beginning construction the owner will schedule a preconstruction conference where FmHA will review the planned development with the owner, its architect or engineer, project inspector, attorney, contractor(s), and other interested parties. The conference will thoroughly cover applicable items included in Form FmHA 1924–16, "Record of Preconstruction Conference," and the discussions and agreements will be documented. Form FmHA 1924–16 may be used for this purpose.

(2) *Monitoring reports.* Each owner will be required to monitor and provide reports to FmHA on actual performance during construction for each project financed, or to be financed, in whole or

in part with FmHA funds. The reports are to include:

(i) A comparison of actual accomplishments with the construction schedule established for the period. The partial payment estimate may be used for this purpose.

(ii) A narrative statement giving full explanation of the following:

(A) Reasons why established goals were not met.

(B) Analysis and explanation of cost overruns or high unit costs and how payment is to be made for the same.

(iii) If events occur between reports which have significant impact upon the project, the owner will notify FmHA as soon as any of the following conditions are known:

(A) Problems, delays, or adverse conditions which will materially affect the ability to attain program objectives or prevent the meeting of project work units by established time periods. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any Federal assistance needed to resolve the situation.

(B) Favorable developments or events which enable meeting time schedules and goals sooner then anticipated or producing more work units than originally projected or which will result in cost underruns or lower unit costs than originally planned and which may result in less FmHA assistance.

(3) *Inspection.* The borrower must provide for inspection of all construction. When the borrower enters into an agreement for technical services with an engineer/architect, the agreement should provide for general engineering/architectural inspection of the construction work. When no such agreement exists, or FmHA or the borrower determines the inspection services of the engineer/architect may not be sufficient, the owner must provide a project inspector. Prior to the preconstruction conference, the borrower must submit a résumé of qualifications of the project inspector to FmHA for acceptance in writing. The project inspector will be responsible for making inspections necessary to protect the borrower's interest and for providing written inspection reports to the borrower with copies to the FmHA District Director. Guide 11 of Subpart A of this Part 1942 (available in any FmHA office) may be used as a guide format for inspection reports. For new buildings, additions to existing buildings, and rehabilitation at the following stages of construction and at other stages of construction as determined by the District Director and the borrower. Inspections by FmHA are solely for its benefit as lender.

(i) An initial inspection should be made just prior to or during the placement of concrete footings or monolithic footings and floor slabs. At this point, foundation excavations are complete, forms or trenches and steel are ready for concrete placement and the subsurface installation is roughed in. If the building design does not include concrete footings the initial inspection should be made just after or during the placement of poles or other foundation materials.

(ii) An inspection should be made when the building is enclosed, structural members are still exposed, roughing in for heating, plumbing and electrical work is in place and visible, and wall insulation and vapor barriers are installed.

(iii) A final inspection should be made when all development of the structure has been completed and the structrure is ready for its intended use.

(4) *Prefinal inspections.* A prefinal inspection will be made by the owner, project inspector, owner's architect or engineer, representatives of other agencies involved, and the District Director. The inspection results will be recorded on Form FmHA 1924–12, "Inspection Report," and a copy provided to all interested parties, including the FmHA State Director.

(5) *Final inspection.* A final inspection will be made by FmHA before final payment is made.

(6) *Changes in development plans.* (i) Changes in development plans may be approved by FmHA when requested by owners, provided:

(A) Funds are available to cover any additional costs; and

(B) The change is for an authorized loan purpose; and

(C) It will not adversely affect the soundness of the facility operation or FmHA's security; and

(D) The change is within the scope of the contract; and

(E) Any applicable requirements of Subpart G of Part 1940 of this chapter have been met.

(ii) Changes will be recorded on Form FmHA 1924–7, "Contract Change Order," or other similar forms may be used with the prior approval of the District Director. Regardless of the form, change orders must be approved by the FmHA District Director.

(iii) Changes should be accomplished only after FmHA approval on all changes which affect the work and shall be authorized only by means of contract change order. The change order will include items such as:

(A) Any changes in labor and material and their respective cost.

(B) Changes in facility design.

(C) Any decrease or increase in quantities based on final measurements that are different from those shown in the bidding schedule.

(D) Any increase or decrease in the time to complete the project.

(iv) All changes shall be recorded on chronologically numbered contract change orders as they occur. Change orders will not be included in payment estimates until approved by all parties.

§ 1942.127 Project monitoring and fund delivery.

(a) *Coordination of funding sources.* When a project is jointly financed, the District Director will reach any needed agreement or understanding with the representatives of the other source of funds on distribution of responsibilities for handling various aspects of the project. These responsibilities will include supervision of construction, inspections and determination of compliance with appropriate regulations concerning equal employment opportunities, wage rates, nondiscrimination in making services or benefits available, and environmental compliance. If any problems develop which cannot be resolved locally, complete information should be sent to the State Office for advice.

(b) *Multiple advances.* Loans under this subpart are subject to the provisions of § 1942.17 (p)(2) of Subpart A of this Part 1942.

(c) *Use and accountability of funds.* Loans under this subpart are subject to the provisions of § 1942.17 (p)(3) of Subpart A of this Part 1942.

(d) *Development inspections.* Loans under this subpart are subject to the provisions of § 1942.17(p)(4) of Subpart A of this Part 1942.

(e) *Payment for project costs.* Each payment for project costs must be approved by the borrower's governing body.

(1) *Construction.* Payment for construction must be for amounts shown on payment estimate forms. From FmHA 1924–18, "Partial Payment Estimate," may be used for ths purpose or other similar forms may be used with the prior approval of the District Director. However, the District Director cannot require more reporting burden than is required by Form FmHA 1924–18. Advances for contract retainage will not be made until such retainage is due and payable under the terms of the contract. The review and acceptance of project cost, including construction partial payment estimates, by FmHA does not

attest to the correctness of the amounts, the quantities shown, or that the work has been performed under the terms of agreements or contracts.

(2) *Major equipment.* Payment for major equipment should generally coincide with delivery of the usable equipment, along with any necessary title or certifications, to the borrower. Borrowers may not use FmHA loan funds to make deposits on equipment not ready for delivery. If a borrower purchases a truck chassis from one supplier and another supplier will complete the development of a fire or rescue vehicle, FmHA may release funds to pay for the chassis when title to the chassis is transferred to the borrower.

(f) *Use of remaining funds.* Loans under this subpart are subject to the provisions of § 1942.17 (p)(6) of Subpart A of this Part 1942.

§ 1942.128 Borrower accounting methods, management reports and audits.

(a) Loans under this subpart are subject to the provisions of § 1942.17(q) of Subpart A of this Part 1942 except as provided in this section.

(b) Borrowers with annual incomes not exceeding $100,000 may, with concurrence of the District Director, use Form FmHA 1942–53, "Cash Flow Report," instead of page one of schedule one and schedule two of Form FmHA 442–2, "Statement of Budget, Income, and Equity." When used for budgeting, the cash statement should be projected for the upcoming fiscal year. When used for quarterly or annual reports, the cash flow report should include current year projections and actual data for the prior year, the quarter just ended, and the current year to date.

§ 1942.129 Borrower supervision and servicing.

Loans under this subpart are subject to the provisions of § 1942.17(r) of Subpart A of this Part 1942 and Subpart E of Part 1951 of this chapter.

§§ 1942.130–1942.131 [Reserved]

§ 1942.132 Subsequent loans.

Subsequent loans will be processed under this subpart.

§ 1942.133 Delegation and redelegation of authority.

Loan approval authority is in Subpart A of Part 1901 of this chapter. State Directors may delegate approval authority to District Directors to approve fire and rescue loans regardless of whether authority to approve other community facility loans is delegated. Except for loan approval authority, District Directors may redelegate their duties to qualified staff members.

§ 1942.134 State supplements and guides.

State Directors will obtain National Office clearance for all State supplements and guides under FmHA Instruction 2006–B, (available in any FmHA Office).

(a) *State supplements.* State Directors may supplement this subpart to meet State and local laws and regulations and to provide for orderly application processing and efficient service to applicants. State supplements shall not contain any requirements pertaining to bids, contract awards, and materials more restrictive than those in this subpart.

(b) *State guides.* State Directors may develop guides for use by applicants if the guides to this subpart and Subpart A of Part 1942 this are not adequate. State Directors may prepare guides for items needed for the application; items necessary for the docket; and items required prior to loan closing or construction starts.

§§ 1942.135—1942.149 [Reserved]

§ 1942.150—OMB Control Number.

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0575–0120.

Dated: March 31, 1987.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 87–26395 Filed 11–13–87; 8:45 am]

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FARM CREDIT ADMINISTRATION

12 CFR Parts 614 and 624

Farm Credit System Regulatory Accounting Practices—Temporary Regulations; Loan Policies and Operations—Loss-Sharing Agreements

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA), by the FCA Board, adopts amendments to the regulations implementing the provisions of the Farm Credit Act Amendments of 1986 (1986 Amendments) (Pub. L. 99–509) relating to the use of regulatory accounting practices (RAP) by Farm Credit System (System) institutions and to a regulation relating to, among other things, the reversal of previously accrued financial assistance under System loss-sharing agreements. The 1986 Amendments authorize System institutions during the period July 1, 1986 through December 31, 1988, to defer certain specified expenses for regulatory purposes. As those expenses are incurred, they are capitalized and amortized over 20 years rather than expensed. Deferring expenses in the manner authorized by the 1986 Amendments is not in accordance with generally accepted accounting principles (GAAP). Regulations implementing RAP and the regulation prohibiting reversal of financial assistance were adopted in final effective December 24, 1986, with a request for comments. The amendments adopted by the FCA Board reflect consideration of all public comments made on these regulations.

EFFECTIVE DATE: The amendments shall become effective upon the expiration of 30 days after this publication during which either or both Houses of Congress are in session. Notice of effective date will be published.

FOR FURTHER INFORMATION CONTACT: Thomas Dalton, Financial and Analysis Division Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090, (703) 883–4460.

SUPPLEMENTARY INFORMATION: On December 24, 1986, the FCA published a Final Rule with Request for Comment (51 FR 46597) relating to use of RAP and reversal of accrued financial assistance and amended the RAP regulations on January 26, 1987 (52 FR 2670). The public was given until February 24, 1987, to submit comments on these regulations. A public hearing on the regulations was held at the FCA offices in McLean, Virginia, on February 27, 1987 (52 FR 2672, January 26, 1987). The FCA Board responded to one matter raised by the comments relating to use of RAP by Federal land bank associations (FLBA) and adopted an amendment to the RAP regulations at its special meeting on April 17, 1987 (52 FR 13423, April 23, 1987).

Due to the financial condition of certain System institutions, the FCA Board at its special meeting on September 22, 1987 (52 FR 35349, September 18, 1987), amended the RAP regulations (52 FR 37131, October 5, 1987), to prohibit a System institution from retiring stock or participation certificates in accordance with RAP when the net worth of such institution reaches zero in accordance with GAAP and/or, in the case of a System bank, when that bank is unable to meet the collateral requirements to support issuance of consolidated or Systemwide securities in the national money markets. The FCA Board adopted the

amendment as a final rule with a request for comments.

On the final regulations, the FCA received comments from nine Farm Credit districts, the Farm Credit Corporation of America (FCCA), the Farm Credit System Capital Corporation (Capital Corporation), a law firm, the American Banker's Association (ABA), and the Financial Accounting Standards Board (FASB), and the testimony of several witnesses at the FCA public hearing. The FCA also received comments from the FCCA and two Farm Credit districts on the September 22, 1987 amendment relating to stock impairment.

The FCA Board has analyzed and considered each comment and the testimony presented at the FCA hearing, and is responding to the comments on the basis of a thorough consideration of the merits of the points of view expressed. As a result of the FCA Board's analysis of the comments received, the FCA hereby publishes certain amendments to its final regulations published on December 24, 1986.

General

One Farm Credit district believes that the promulgation of the regulations under the good cause exception to ordinary rulemaking procedures was unjustified. The commenter stated that the FCA Board was aware of the content of the legislation before its enactment date of October 21, 1986, and could have published a notice of proposed rulemaking shortly after that date soliciting comments on issues of particular concern to the agency without a draft of the text. The commenter asserts that this approach would have enabled the FCA to give prior notice and opportunity for comment without obstructing agency functions after December 24, 1986.

The FCA Board disagrees with these comments. As stated in the preamble to the final regulations (51 FR 46597, December 24, 1986), Congress enacted the 1986 Amendments on an emergency basis in order to address the serious financial condition of the System and to enable System institutions to use RAP in 1986 as soon as possible and directed the FCA to issue regulations for its use. Thus, it was imperative that the FCA have regulations in place prior to year end in order for System institutions to prepare financial statements for 1986 in accordance with the regulations. Because the two months between enactment of the 1986 Amendments on October 21, 1986 and December 31, 1986 did not provide sufficient time for the FCA to consider and issue proposed regulations based on the new legislation, send the proposed regulations to Congress 30 days prior to publication as required by the Farm Credit Act of 1971, as amended (Act) (Pub. L. 92–181), publish the regulations and allow at least 30 days for public comment, consider and respond to the comments, issue final regulations, and allow at least 30 days as required by the Act before the regulations became effective, the FCA Board issued the regulations effective December 24, 1986 with a request for comments (51 FR 46597–46601).

Similarly, there was insufficient time for notice and comment with respect to § 624.114 relating to reversals of financial assistance. On October 14, 1986, System banks proposed to reverse at year end financial assistance accrued under the 37–Bank Capital Preservation Agreement (BCPA) as of third quarter 1986. Because the proposed BCPA amendment conditioned the reversal of accrued financial assistance on the availability and use of RAP, the FCA could not analyze the impact such an amendment would have on the financial condition of all System institutions until early December when the RAP guidelines were sufficiently developed for consideration in the analysis. Because the FCA needed to respond by December 31, 1986, the date upon which the proposed reversal would take place, the FCA Board adopted § 624.114 effective immediately with a request for comments (51 FR 46597–46601, December 24, 1986).

The ABA commented that RAP can be expected to burden the System with an extraordinary drain on earnings (because of deferred expenses) far into the future. Therefore, RAP should be authorized for use only in the most extreme circumstances. Three Farm Credit districts expressed concern that the regulations are far too restrictive in permitting the use of RAP. Several System institutions noted in their testimony at the FCA hearing that interest deferral should be used to cure capital impairment.

The FCA Board agrees that it was clearly the intent of Congress that deferral of loan loss provisions should only be authorized for use by System institutions that have incurred stock impairment and that use of RAP must follow the guidelines set forth in the regulations. The FCA Board also concurs with the System institutions that interest deferral may also be used to cure capital impairment. The FCA Board believes stock impairment would be considered a critical financial situation to any business organization, necessitating that extreme actions be taken. The FCA Board further agrees that improper use of RAP by a System institution could have an adverse impact on its earnings. However, § 624.102(c) properly addresses this concern by requiring institutions to charge rates of interest which are *not* less than competitive interest rates. Further, § 624.102 of the RAP regulations provides that in all instances interest rates charged must be sufficient to cover the institution's interest expense and other operating costs on a RAP basis.

The ABA suggested that net System earnings above the minimum amounts needed to rebuild System reserves should be placed into sinking funds in order to repay the difference between RAP and GAAP. The ABA believes this would recognize the overall responsibility of all System institutions to assist in returning troubled institutions to full financial health and would serve to reduce the disparity in interest rates that might otherwise occur between financially strong institutions and those still struggling, even with the use of RAP.

The FCA Board believes that a significant purpose of RAP is to permit System institutions experiencing high financing costs and high loan losses to amortize those expenses, and to use a portion of future earnings to pay for those expenses. Therefore, the costs of RAP shall be paid for over time by the institutions using RAP. Furthermore, the 1986 Amendments were intended to complement the Farm Credit Amendments Act of 1985 (1985 Amendments) (Pub.L. 99–205) which authorized the Capital Corporation to assess stronger System institutions in order to provide financial assistance to the weakened System institutions. Earlier this year, the FCA Board published proposed amendments to the regulations relating to assessments of the Capital Corporation, 12 CFR 611.1142(h) (52 FR 13694, April 24, 1987), for the specific purpose of assisting financially troubled System institutions. Finally, the System institutions have a number of self-help agreements and are developing other arrangements to assure financial assistance to weakened institutions apart from statutory and regulatory mechanisms. Accordingly, the FCA Board declines to adopt the suggestion.

The FCCA and two Farm Credit districts commented that the regulations should be clarified by providing that any amount which is otherwise eligible to be capitalized, but which is not capitalized because it is not needed to avoid stock impairment, may be carried forward for RAP purposes to any subsequent period

ending on or before December 31, 1988, and capitalized during such subsequent period to the extent necessary to cure stock impairment.

Provisions of the 1986 Amendments pertaining to the deferral and capitalization of additions to the loan loss allowance are clear in that such deferrals are to be made on an annual basis. Therefore, the FCA Board believes that Congress did not intend that such additions to the allowance that are eligible for deferral and capitalization in any one year to be carried forward into subsequent years. In any event, § 624.102, pertaining to interest deferrals and capitalization, already provides for this unused/carry-forward treatment in regards to deferrals of excessive interest costs.

A law firm and one Farm Credit district commented that the regulations, as written, do not allow for the benefits obtained by a Federal land bank (FLB) from the utilization of RAP to flow through to its associations. They suggested that the regulations be clarified to allow for this pass-through and thus effectuate the congressional intent of the 1986 Amendments.

The FCA Board agrees with this comment and the regulations have already been amended by the FCA Board, at its special meeting on April 17, 1987, to authorize the FLBAs to use RAP to cure their stock impairment in the same district where the FLB is also using RAP to cure its stock impairment. This amendment is set forth in § 624.104.

The FCA Board responds, section by section, to the remaining comments.

Section-By-Section Analysis and Response to Comments

PART 624—FARM CREDIT SYSTEM REGULATORY ACCOUNTING PRACTICES—TEMPORARY REGULATIONS

Section 624.100 General.

The FCCA and several Farm Credit districts commented that the regulation should be clarified to allow for the continued deferral and amortization of amounts capitalized prior to December 31, 1988, for the full 20-year amortization period. They stated that if the regulation is not clarified, the 20-year amortization period contemplated by the 1986 Amendment and by the regulations themselves would arguably nullified when the RAP regulations sunset on December 31, 1988.

The FCA Board agrees with this comment and has amended the regulation to extend its effective date to 20 years subsequent to December 31, 1988, or December 31, 2008, for the purpose of amortizing amounts capitalized prior to December 31, 1988.

Section 624.102 Deferral of Interest Costs on Debt.

The FCCA and several Farm Credit districts recommended that § 624.102(a) be revised to reflect the option contained in the 1986 Amendments that permits a bank to pay current market interest plus a premium to a third party who is thereupon obligated to pay the full amount of interest due on the bank's obligations, and thus indicate the possibility of a true debt defeasance.

The FCA Board believes that § 624.102(a) currently provides for the opportunity of a true debt defeasance. In addition, section 4.8 of the Act granted System banks authority to repurchase and retire debt early even before the 1986 Amendments were enacted. Furthermore, the more detailed authority in the 1986 Amendments permitting third parties to be paid current market interest plus a premium to assume debt obligations does not require implementing regulations. In addition, upon enactment of the 1986 Amendments, System banks routinely entered into such third-party transactions based on the statutory authority. Accordingly, the FCA Board has determined it is unnecessary to restate the statutory authority in the regulations. The FCCA and a Farm Credit district commented that since the 1986 Amendments expressly contemplate the repurchase of Systemwide securities, the FCA's Capital Directive No. 1 requiring prior approval of such transactions, is superseded to that extent. The commenters further state that they both assume that FCA approval of such transactions are not required under § 624.102(a).

The FCA Board disagrees with the assumption that the 1986 Amendments in any manner superseded the 1985 Amendments and therefore, superseded the FCA Capital Directive No. 1. This Directive was established pursuant to the 1985 Amendments to set the minimum level of adequate capital and to ensure that funds were available for providing financial assistance to other System institutions and were not dissipated through actions outside the normal course of business. In the legislative history, Congress reaffirmed that the FCA must continue to implement the 1985 Amendments. H.R. Conf. Rep. No. 1012, 99th Cong., 2d Sess. 230 (1986). In addition, Congress intended that the FCA use its authority to establish capital adequacy to ensure that the System does not take actions that threatened its viability. H.R. Rep. No. 967, 99th Cong., 2d Sess. 6 (1986). Accordingly, the FCA Board has determined that the Directive continues to apply to the repurchase of debt obligations.

One Farm Credit district commented that § 624.102(d) should be amended to clarify that the "costs" listed are only three among many criteria that are relevant to the appropriateness of a rate and that the generation of earnings sufficient to cover the GAAP loan loss reserve is not necessarily a determining factor in the adequacy of a rate. It therefore requested that additional criteria be added.

The FCA Board strongly disagrees with this comment regarding § 624.102(d). A business must consider all costs, including costs associated with individual products as well as all other products and operating costs. Although certain costs will vary according to product volume and other costs may be determined to be recoverable over a longer term, it is critical that a business identify all its costs and set forth a product pricing strategy to cover these costs in the long term. Accordingly, if a System institution, as any business, was to price its loan products without being cognizant of its cost structure, both short- and long-term, its profitability and therefore financial viability would be drawn into question. Assertions have been made that an institution must consider other factors such as access of borrowers to alternative sources of credit, the need to establish reserves, and the volume of net new borrowing in setting rates above the enumerated costs in § 624.102(d). However, the FCA's evaluation criteria for interest rate programs reflect those minimums necessary to insure that the program permits the continued viability of the institution. For the reasons stated above, the FCA Board believes § 624.102(d) does not require any change.

Section 624.103 Deferral of the Provisions for Loan Losses.

The FCCA and one Farm Credit district commented that it is unclear how § 624.102(a) would apply to excess loan loss provisions for the calendar year 1986, since the relevant period commences on July 1, 1986, and excess provisions are to be determined on an annual basis. The FCCA stated that the legislative history reflects a clear intention to permit institutions to take into account any provision for loan losses during the period January 1, 1986 through June 30, 1986 in determining the amount, if any, of the provision for loan losses accrued after June 30 that may be capitalized and amortized. Accordingly,

the FCCA believes that this section should be clarified to reflect that, while only that portion of the excess provision which accrued after June 30, 1986 may be capitalized, the provision for the entire year may be taken into account in determining whether or not an excess provision exists. One Farm Credit district commented that capitalization and amortization of the provision should be permitted for the full calendar year of 1986.

In calculating the amount of loan loss provisions that may be amortized for the period July 1, 1986 through December 31, 1986, the FCA Board agrees that in determining whether an institution has satisfied the ½ of 1 percent threshold, the institution could include its provisions for losses taken in the first half of 1986. However, the portion capitalized shall in no event exceed the amount of provisions made by the institution during the last half of 1986. The FCA Board believes this calculation is reflected in the regulation and, therefore, an amendment is unnecessary.

Regarding § 624.103(b), one Farm Credit district commented that there is no need to require an institution, as a prerequisite to the full utilization of RAP, to execute a management agreement with the Capital Corporation if that institution is operationally sound and its need to use RAP results primarily from its having provided assistance to other institutions. In addition, the FCCA and two Farm Credit districts believe that the use of the term "management agreement" creates a conflict with section 5.17(a)(2) of the Act, which requires stockholder approval of certain management agreements. Therefore, they believe that the word "management" should be stricken from the regulation to preclude any inference that the agreement would require the approval of stockholders.

The FCA Board does not believe that an agreement with the Capital Corporation is unnecessary. The RAP regulations were intended for use by those System institutions who experienced extreme financial difficulties due to significant loan losses and/or high debt costs which resulted in the impairment of the institution's capital stock. An institution experiencing significant loan losses or having excessively high debt cost would not be in a financial condition to provide financial assistance to other institutions. Similarly, if an institution is experiencing financial difficulties that are due to reasons other than extraordinary loan losses or excessively high debt costs, such an institution would not have the opportunity to use RAP since it would not have any loan loss or interest amounts eligible for RAP deferral. Even if an institution had provided financial assistance, it must also have experienced severe financial difficulties due to excessive loan losses and/or high debt cost in order to be eligible to use RAP. The FCA Board believes that if this situation (excessive loan losses or high debt costs) exists in any institution, the criteria for entering into an agreement with the Capital Corporation is appropriate and must be consistently applied.

The inclusion of the term "management agreement" was not intended to have the same meaning as found in section 5.17(a)(2) of the Act. The FCA Board agrees with the comments relating to eliminating the word "management" in § 624.103(b) and has amended the regulation accordingly.

The Capital Corporation and one Farm Credit district commented that § 624.103(c) should be amended to permit the payment of dividends to the Capital Corporation on preferred stock purchased by the Capital Corporation. The commenters believe that amending the regulation will not circumvent the restrictions on charging lower than competitive interest rates and will, in fact, further the intent of Congress since the dividends will be used by the Capital Corporation to provide assistance to other System institutions experiencing financial difficulties.

The FCA Board disagrees with the comments recommending that the regulations be amended to authorize institutions using RAP to pay dividends on Capital Corporation preferred stock. The regulation's prohibition against dividend payment is essential to curing the extreme financial difficulties of institutions using RAP. Preferred stock purchases by the Capital Corporation, if any, are to be used as a supplement to the RAP regulations. Amending the regulations to authorize cash dividend payments to the Capital Corporation would have the same negative financial impact as authorizing dividend payments to other stockholders; that is, draining the institution of cash resources that have earnings potential.

Section 624.105 Retirement of Equities.

The Capital Corporation commented that § 624.105 should be revised to permit explicitly the issuance of preferred stock to the Capital Corporation by a System institution that is capitalizing and deferring a portion of its provision for losses in accordance with RAP at a price in excess of par (rather than at the par amount), to permit the retirement of such preferred stock at the purchase price paid for such stock (rather than at the par or book amount), and to permit the payment of dividends based on the purchase price of the stock (rather than the par amount).

The FCA Board can find no basis for amending the regulations to authorize such treatment of preferred stock. Though there are no prohibitions in any existing provisions of the Act or regulations against allowing the price paid for any type of capital stock purchase to exceed par value, stock or participation certificates must be retired at par or face amount not to exceed book value. *See e.g.*, 12 U.S.C. 2034, 2073, 2094, 2126. In addition, as a matter of practice, all System institutions issue stock or participation certificates at a purchase price equal to par or face amount. To accommodate such a regulatory change would necessitate an amendment to the Act of Congress. The Act and FCA regulations permit payment of dividends; however, the rate of dividends is based on the par value of capital stock.

The FCCA, the Capital Corporation, and two Farm Credit districts commented that § 624.105(b) should be clarified to indicate that book value, rather than par or face amount, is to be determined in accordance with RAP. These commenters suggested that the phrase "the issuance and retirement of stock and participation certificates at par or face amount as determined in accordance with RAP" be replaced with the phrase "the retirement of stock and participation certificates at the lesser of (i) par (or face amount) or (ii) book value as determined in accordance with RAP" in order to avoid any confusion over the concepts of par and book values and to recognize the fact that, under the Act, stock is always issued at par. The FCCA also suggested that conforming changes be made in § 624.105(a).

The FCA Board agrees that the regulatory language should be amended to clarify that capital stock is issued at par value or face amount in all instances. An institution's use of RAP or GAAP has no effect on the par or face amount of the capital stock, only on how the capital stock is valued on its books. Therefore, paragraph (b) of § 624.105 has been clarified to reflect that stock and participation certificates will be issued at par value (or face amount) and that they will be retired at the lesser of par (or face amount) or book value in accordance with RAP, subject to certain specified requirements.

The FCCA, the Capital Corporation, and four Farm Credit districts addressed

the requirement in § 624.105(b)(1) that an institution obtain a legal opinion if it desires to utilize RAP to retire impaired equities at par. Because the opinion must state that the retirement of equities at par conforms with the requirements of all applicable laws, one district expressed concern that the opinion may be impossible to obtain, therefore undermining Congress' desire to avoid impairment of borrower equity. Accordingly, this district believes that the requirement of a legal opinion should either be deleted or clarified to reflect that the retirement complies with each bank's bylaws and applicable laws and regulations. While the Capital Corporation believes that the requirement of a legal opinion is sound, it commented that "the current language relating to the 'basis' of the issuance and retirement of equities is too vague as to the issues upon which the FCA is requesting an opinion." The Capital Corporation recommended that the opinion language be revised so that the legal opinion regarding issuance and retirement of stock is based on compliance with the Act. The FCCA and three Farm Credit districts requested that this section be revised to allow an institution using RAP to retire stock par, provided that independent legal advice is obtained, appropriate disclosure is made to stockholders, and the board of directors, and management decide that the stock retirement under RAP is based on sound business judgment.

The FCA Board does not agree with the comments that the regulation is too vague or that the legal opinion should be limited to compliance with RAP or to issuance and retirement of stock in accordance with the Act. The regulation requires that the independent counsel examine the policies and procedures to be followed in retiring such equities to determine whether they are in accordance with the legal responsibilities the institution has with respect to all stockholders, including the requisite disclosures that should be made to retiring, current, and new stockholders. Such legal responsibilities extend beyond the narrow focus of RAP or the Act. It is clearly an institution's responsibility to ensure that all of its activities are performed in accordance with all applicable laws and regulations. The FCA Board, accordingly, does not believe this requirement to be overly burdensome or prohibitive; in fact, this should be an established practice within System institutions as it has been with the business community at large. Furthermore, the FCA Board does not believe that this requirement is impossible to meet or has otherwise rendered the regulations void. The FCA Board finds that the regulation does not prevent institutions from using RAP to cure stock impairment and permit orderly borrower stock retirement upon loan repayment as asserted by the commenters. The FCA Board is unaware of any System institution that has been unable to obtain an opinion required by these regulations. The FCA Board is also unaware of any institution that is using RAP that is not also retiring its stock on a par value basis in accordance with the regulations.

Comments on the October 5, 1987 amendment, prohibiting stock retirement at par value when a System institution reaches zero net worth in accordance with GAAP, were received from the FCCA on behalf of its members and two Farm Credit districts. None of the comments objected to the substance of the regulation or suggested amendments to it. The FCCA agreed that equity retirement should be prohibited if an institution has zero or negative net worth under GAAP, but pointed out that legislation passed by the House of Representatives would provide Federal guarantees of such equities. The FCCA also stated that the value of capital should be determined using RAP for purposes other than equity retirement even when net worth under GAAP is zero or less. According to the FCCA, a System institution should not be declared insolvent by FCA because it has zero capital under GAAP if it has ample capital under RAP. The FCCA also believes that the 1986 Amendments give the FCA authority to establish flexible lending limits based on RAP even though an institution may have zero net worth under GAAP.

The two Farm Credit districts adopted the FCCA comments. One Farm Credit district also questioned the FCA's publication of the amemdent as a final rule without prior notice and opportunity for comment. This district stated that the financial condition of certain institutions is not a sufficient basis to promulgate a regulation without prior notice and comment, particularly when pending legislation would correct the perceived problems in stock retirement by institutions using RAP.

The FCA Board appreciates the FCCA's remarks on whether insolvency and lending limits should be based on RAP, but they do not address the issues upon which comments were requested. Regarding the remaining comments, the FCA Board believes that the regulation was properly promulgated as a final rule with a request for comments. At the time the regulation was adopted, several System institutions were approaching zero net worth on a GAAP basis. If the FCA had not acted immediately, continued stock retirement by such institutions may have led to a situation in which their nonviability could be avoided only through substantial outside assistance, irrespective of the continued availability of RAP. The FCA Board recognizes that legislation pending in Congress may alleviate these financial concerns and may provide Federal guarantees for these equities. However, such legislation has not as yet been enacted and the FCA must responsibly address the impact that stock retirement may have upon the safety and soundness of specific institutions and upon the System as a whole.

Section 624.111 Deferral of Interest Costs.

Regarding § 624.111(b), the FCCA and several Farm Credit districts believe that the restriction that prohibits the use of RAP until after the institution has been given notice that the Capital Corporation is unable to provide financial assistance is unnecessary and inappropriate. They believe this condition does not reflect the intent of Congress, that recent litigation concerning the assessment regulations has made the availability of assistance from the Capital Corporation even more uncertain, and that the nature of relief under RAP is entirely different from that of Capital Corporation assistance.

The FCA Board finds the commenters' views that there is no statutory basis in the 1986 Amendments for the Capital Corporation's involvement to be without merit. The legislative history indicates continued congressional support for the 1985 Amendments. H.R. Conf. Rep. No. 1012, 99th Cong., 2d Sess. 230 (1986); *see* H.R. Rep. No. 967, 99th Cong., 2d Sess. 8 (1986). The Capital Corporation was established by Congress under the 1985 Amendments to the Act for the specific purpose of marshalling the resources of the System and using these resources to provide financial assistance to those System institutions that the Capital Corporation determined needed assistance. Since the use of RAP does not provide any direct financial assistance to an institution but only provides a longer time to absorb certain expenses, the FCA Board believes it necessary that a determination be made regarding whether an institution using RAP will also require any direct financial assistance to ensure its eventual return to financial viability. The FCA Board, however, has amended the last sentence of paragraph (b) of § 624.111 to state more clearly the

determination to be made by the Capital Corporation.

Section 624.113 Financial Reporting and Disclosure.

The ABA agrees with the disclosure requirements set forth in § 624.113; however, it believes that System bonds should be accompanied by prospectus to alert prospective investors of the impact of RAP.

System institutions, through their System Funding Corporation, issue consolidated Systemwide financial statements on both a quarterly and annual basis. These financial statements provide essentially the same information that would be provided in any prospectus. These statements include a separate discussion on the use of RAP and are made available to any potential investor together with any public press releases from either the System's Funding Corporation or brokerage firms that market System offerings. The FCA Board believes that these disclosure mechanisms are adequate to alert investors of the impact of RAP.

The FASB agrees with the requirement of § 624.113 that financial statements continue to be prepared in accordance with GAAP. However, the FASB is concerned that a reconciliation of financial information may be confusing and potentially misleading to the users of the financial statements. The FASB believes that the reconciliation required by § 624.113 (b) and (c) "may cast doubt on the appropriateness of accounting principles used in the general-purpose financial statements by failing to distinguish for the user the qualitative difference between amounts determined in accordance with generally accepted accounting principles and amounts determined in accordance with the temporary regulations."

The FCA Board understands the concern of the FASB in assuring that users are not mislead or confused by disclosure of the effects that the use of RAP has upon an institution. Accordingly, the regulations have been amended to place the discussion of RAP in the management's commentary section of the disclosure, thereby separating RAP disclosure requirements from the primary financial statement disclosure in the footnotes. This allows the institution to provide appropriate footnote disclosure on a GAAP basis, as recommended by the FASB. In addition, the regulation has been amended to ensure that the use of the RAP regulations is clearly disclosed.

Two Farm Credit districts commented that § 624.113(a) should be revised to reflect the intent of Congress to have institutions using RAP present their financial statements in accordance with RAP. Another Farm Credit district also questioned the requirement in § 624.113(a) that a System institution using RAP maintain its allowance for losses in accordance with GAAP when its provisions are being recorded in accordance with RAP.

The FCA strongly disagrees with the contention that Congress intended, through the 1986 Amendments, to mandate that financial statements be issued to stockholders and other interested parties on a basis other than GAAP. In the 1985 Amendments, Congress clearly stated its intent that System institutions issue audited financial statements that had been prepared in accordance with GAAP. H.R. Rep. No. 425, 99th Cong., 1st Sess. 25 (1985). During consideration of the 1986 Amendments, Congress reaffirmed the basic premise that System institutions should operate in accordance with GAAP except for a limited period to amortize certain costs and loan loss expenses. H.R. Conf. Rep. No. 1012, 99th Cong., 2d Sess. 230–231 (1986); H.R. Rep. No. 967, 99th Cong., 2d Sess. 8, 15 (1986). With respect to the issue of whether the allowance must be maintained on a GAAP basis, the FCA Board believes the 1986 Amendments were clear in this regard. In the 1986 Amendments, the statement is made that System institutions may "capitalize annually their provision for losses," provisions for losses being defined as the additions to the allowance and not the allowance account. H.R. Conf. Rep. No. 1012, 99th Cong., 2d Sess. 6 (1986). This statement and others in the supporting legislative history indicate that Congress intended that a portion of the provisions (additions to the allowance) be capitalized and maintained separate from the allowance account, but intended that the allowance for losses account be maintained on a GAAP basis. H.R. Conf. Rep. No. 1012, 99th Cong., 2d Sess. 230 (1986).

The FCCA and several Farm Credit districts commented that the additional notices required by § 624.113(b)(1) are unnecessary and redundant with respect to stockholders who receive the financial statements. Likewise, they believe the notice to applicants required by § 624.113(b)(2) could just as well be served by providing applicants with copies of the most recent quarterly report. In addition, they recommended that § 624.113 (b)(1) and (c) be clarified by providing that the 30-day period for giving notice to stockholders and to the FCA should commence on the date the institution closes its books for the fiscal period during which RAP was adopted, rather than on the last day of such fiscal period. The commenters stated that it was impractical for an institution to be able to provide notice to stockholders until 30 days after it closed its books.

The FCA Board has no objections to the disclosure requirements in § 624.113(b) (1) and (2) being incorporated into the institution's financial statements and used as the vehicle of notification required by those sections, so long as the time constraints in those sections are achieved. No regulatory amendment is necessary to permit this result. Due to the potential impact upon existing and prospective stockholders, the FCA Board does not believe notification in 30 days of adoption of RAP is unreasonable. In fact, institutions that anticipate using RAP should be proactive in this matter by providing prior notification of that intention to its stockholders.

The FCA Board disagrees with the comments that the measurement date by which the 30-days disclosure requirement should start needs clarification. The regulations clearly provide that the measurement date commences on the date an institution adopts and uses RAP. For instance, if a System board resolution provided that RAP was to be adopted effective December 31, 1986, notifications are required to be provided to existing stockholders and loan applicants on January 30, 1987. The FCA Board recognizes that this requirement makes an institution decide on a timely basis whether to adopt the use of RAP. However, the FCA Board also notes that the RAP regulations were effective December 24, 1986, and considers that the significance of the usage of RAP warrants disclosure within 30 days of adoption. The FCA Board expects that institutions using RAP will provide both stockholders and each loan applicant with the most current information available regarding the book value of the institution's stock and participation certificates on a GAAP basis. Section 624.113(b)(1)(ii) has been amended to reflect that book value is to be on a GAAP basis. Though the FCA Board expects that notification will be given to existing stockholders only upon an institution's adoption of RAP, new loan applicants are to be notified concerning the use of RAP until the institution no longer uses RAP.

Section 624.114 Financial Assistance.

Several Farm Credit districts believe that § 624.114, which prohibits reversals of financial assistance, should be

rescinded. They commented that FCA had no statutory authority to promulgate the regulation, that it is not authorized by the 1986 Amendments, that the regulation does not reflect the intent of Congress, and that the FCA cannot change the understanding of all parties by promulgating a regulation which overrules the conditions and understandings of the BCPA resolution concurred in by the FCA. One Farm Credit district stated that the FCA's authority to approve System loss-sharing agreements under the Act and FCA regulations does not provide sufficient authority to promulgate § 624.114. Another district noted that FCA's authority to approve or disapprove such amendments is limited. This commenter also argued that § 624.114 violates a court order in *Caprock-Plains Federal Land Bank Association v. Farm Credit Administration*, No. CA–5–85–267 (N.D. Tex., March 11, 1986 and March 5, 1987) that the FCA has no authority to compel a transfer of funds from one System institution to another. The district contends that § 624.114 compels a transfer because it requires the permanent transfer of the financial assistance accruals to the receiving institutions.

Two Farm Credit districts commented that they support § 624.114 and believe that the best interests of the System require that the third-quarter capital preservation agreement accruals remain in place. Therefore, they believe it would be inappropriate to amend, change, or delete any portion of this regulation.

The FCA Board strongly disagrees with the comments that the authority of the FCA to approve loss-sharing agreements under the Act does not include the authority to issue § 624.114. 12 U.S.C. 2012(22), 2053, 2072(18), 2093(15), 2122(18).

In addition to its authority to approve loss-sharing agreements, the FCA's general rulemaking authority under 12 U.S.C. 2252(a)(10) to "prescribe rules and regulations necessary or appropriate for carrying out this Act" provides the FCA with the power to issue § 624.114 to deal with the financial crisis that may otherwise occur without it. As to the comments asserting that the regulation is not authorized by the 1986 Amendments and does not reflect congressional intent, the FCA Board notes that the FCA does not rely on the provisions of the 1986 Amendments as authority for issuing § 624.114. However, the FCA Board believes that § 624.114 is consistent with the congressional intent of both the 1985 Amendments and the 1986 Amendments.

The FCA Board promulgated this regulation to disapprove the System banks' proposed amendment to the BCPA to allow reversals of financial assistance accrued under the BCPA during the third quarter of 1986 and to place all System institutions on notice that, in light of the then financial condition of certain System institutions and the System as a whole, no amendments to existing System loss-sharing agreements permitting reversal of financial assistance accrued prior to October 1, 1986 would be approved.

The FCA Board action in adopting this regulation was a result of both its determination to disapprove a specific proposal regarding reversal of accrued financial assistance and its determination that a general rule was necessary to address that and other potential proposals. The specific proposal was embodied in a resolution of the System Finance Subcommittee (SFS) and System Finance Committee (SFC) of October 14, 1986 which sought FCA approval to activate the BCPA as required under the agreement for the third quarter of 1986. The SFS resolution also requested approval of a proposed amendment to the BCPA to permit the contributing banks to reverse the third-quarter contributions. The reversals were conditioned, in part, on the FCA's approval of the receiving banks' use of RAP, expected to be authorized by Congress in the then-pending legislation.

The FCA approved the activation of the BCPA for the third quarter of 1986, but deferred approval of the proposed amendment until after the FCA had an opportunity to consider the application of the use of RAP. Following passage of the 1986 Amendments, the FCA analyzed the statute, developed regulations for the use of RAP, analyzed System financial data and financial projections, and assessed the impact of the proposed reversals on the financial condition of the banks involved. The FCA concluded that the reversals should be prohibited to protect institutions facing imminent stock impairment even with the use of RAP. The FCA determined that the reversals would have left some System institutions with insufficient collateral to continue issuing debt obligations in the national money markets. The collateral deficiency would have threatened the immediate viability of such institutions irrespective of the availability of RAP. Accordingly, the FCA Board concluded that the issuance of a rule of general applicability was necessary to prohibit this amendment and any other such proposals that may have a similar impact (51 FR 46597–46601, December 24, 1986).

The FCA Board recognizes that the conditions giving rise to this prohibition may change. At the time of issuance of § 624.114, the FCA Board identified factors that may warrant a reevaluation of the prohibition against reversing financial assistance accrued prior to October 1, 1986:

> The FCA is aware that efforts are under way in the System to develop and implement various steps to deal with collateralization, including agreements that would provide for the sharing of collateral among System institutions. If, at a future date, the System implements collateral-sharing agreements, or other actions that are demonstrably effective in correcting existing or potential collateral deficiencies that could otherwise preclude an institution from satisfying the collateral requirements for the issuance of debt, the FCA Board will be in a position to reexamine whether, within the context of the then-existing financial condition of the System, this regulation should be modified or deleted to permit the reversal of financial assistance transferred under the Capital Preservation Agreements. In considering such action in the future, the FCA Board will also have to be assured that the System has taken such other appropriate actions as are necessary to ensure that the reversal of financial assistance will not negatively impact the solvency of the institutions that are affected. (51 FR 46599, December 24, 1986)

The FCA Board believes that current circumstances do not warrant a removal of this prohibition. Certain Farm Credit districts have collateral-sharing agreements that continue to make collateral available to certain System institutions for issuance of debt obligations. However, these intradistrict agreements are very temporary in nature, and agreements have not yet been established on a Systemwide basis. Moreover, the financial condition of certain institutions has deteriorated further, placing those institutions close to zero net worth under GAAP, and close to having insufficient collateral to support issuance of debt obligations. Assistance from the Capital Corporation is not available to replace the accrued financial assistance as a result of numerous lawsuits filed by System institutions challenging the 1985 Amendments and the implementing regulations relating to the Capital Corporation's assessment authority. Therefore, reversal of accrued third-quarter 1986 financial assistance at this time would endanger the continued viability of some System institutions at a time when Congress is in the late stages of enacting legislation addressing many issues raised by the reversals. Accordingly, the FCA Board declines to

remove the prohibition agains of financial assistance at this

One Farm Credit district stated that § 624.114 effectively nullifies the intent of the 1986 Amendments that RAP be applied retroactively to July 1, 1986. The FCA Board disagrees. FCA regulation § 624.102 allows System institutions to amortize interest expenses incurred during the period July 1, 1986 to December 31, 1988 as provided in the regulation. FCA § 624.103 permits a System institution meeting the enumerated criteria to capitalize and defer its addition to the provision for loan losses made for the period from July 1, 1986 to December 31, 1988. No corresponding right to reverse assistance accruals retroactively to July 1, 1986 is found in either the statute or its legislative history.

Similarly, several commenters stated that Congress understood the right to reverse to be a condition of activation of the BCPA and provision of the third-quarter 1986 assistance to receiving institutions, and that Congress specifically made RAP retroactive to July 1, 1986 to accommodate the planned reversal. Thus, they argue that § 624.114 is contrary to the 1986 Amendments. One commenter states that, had Congress not understood there to be agreement on the issue, it would explicitly have provided for such reversal in the legislation. The FCA Board finds no support for these assertions either in the statute or legislative history. Furthermore, the FCA Board does not believe that Congress intended for the FCA to permit the System to take any actions which would immediately result in the collateral deficiency of System banks. The FCA Board agrees with the comments of some Farm Credit districts that a purpose of the 1986 Amendments was to delay the need for the infusion of direct Federal assistance, and that the 1986 Amendments were specifically focused on methods that troubled banks themselves could use to work through their financial difficulties. By preventing the immediate collateral deficiencies that would have resulted from reversal of the accrued financial assistance, § 624.114 furthers the legislative purpose of the 1986 Amendments and is an appropriate exercise of FCA's general rulemaking authority.

The FCA Board also agrees with one commenter that Congress did not intend for the Capital Corporation to amend, replace or supersede the System loss-sharing agreements. The FCA Board does not believe that the mechanism for sharing System resources under the 1985 Amendments, nor the establishment of RAP under the 1986 Amendments, was intended by Congress to replace the existing statutory, regulatory, or voluntary System arrangements, such as loss-sharing, but were intended to support and complement these arrangements. H.R. Rep. No. 967, 99th Cong., 2d Sess. 8–9 (1986); H.R. Conf. Rep. No. 1012, 99th Cong., 2d Sess. 230 (1986); 132 Cong. Rec. S16944 (daily ed. Oct. 17, 1986) (remarks of Sen. Cochran).

The FCA disagrees with the comment that § 624.114 disregards the congressional intent of the 1986 Amendments that banks not be forced to contribute to the point of impairment. Congress provided for the use of RAP to cure such impairment. For similar reasons, the FCA Board disagrees with the assertion that the prohibition against reversals could have been eliminated or at least diminished if the FCA had authorized the use of RAP within the full limits of the 1986 Amendments. As previously noted, even with the use of RAP some institutions were close to having insufficient collateral to issue debt obligations, which collateral deficiency is not cured by the use of RAP.

The FCA Board also rejects the comments that § 624.114 compels transfers of funds from one System institution to another in violation of a court order in the *Caprock-Plains* case. On the contrary, one year later, the same court expressly held that

> § 624.114, does [not] in any manner authorize or compel or direct a transfer of funds from and among System institutions. The third quarter assistance accruals were transferred on the books of the lending and receiving institutions at the end of the third quarter of 1986 in accordance with the terms of the 37-Bank Capital Preservation Agreement (37-Bank Agreement). This assistance was initiated and approved by the institutions voluntarily participating in the 37-Bank Agreement. The regulation does not initiate or compel loans; rather it merely prevents institutions from cancelling assistance which has already been given.

Caprock-Plains Federal Land Bank Association v. Farm Credit Administration, No. CA–5–85–267 (N.D. Tex., March 4, 1987), slip. op. at 3.

Finally, the FCA Board rejects the assertion that the FCA has attempted through promulgation of § 624.114 to change the understandings of all parties to the BCPA. The FCA approved activation of the BCPA for third quarter 1986 assistance. The requested reversal required the approval of the FCA because the request constituted an amendment to the terms and conditions of the BCPA. As stated above, the FCA deferred the decision on this amendment until the impact of the System's banks use of RAP could be assessed. The FCA action in no way interfered with the operation of the BCPA under its terms and conditions.

The FCA Board has determined that much confusion exists over the relationship of § 624.114 to the 1986 Amendments and that this confusion can be alleviated by removing § 624.114 from Part 624, implementing the use of RAP, and adding it as a new regulation § 614.4341 to Part 614, Subpart I, relating to loss-sharing agreements. The FCA Board orders that the regulation be removed and added accordingly.

List of Subjects in 12 CFR Parts 614 and 624

Accounting, Agricultural, Banks, Banking, Credit, Rural areas.

As stated in the preamble, Chapter VI, Title 12, Code of Federal Regulations is amended as follows:

PART 614—LOAN POLICIES AND OPERATIONS

1. The authority citation for Part 614 is revised to read as follows:

Authority: 12 U.S.C. 2012(22), 2053, 2072(18), 2093(15), 2122(18), 2216G, 2252(a)(10).

2. Part 614, Subpart I, Loss-Sharing Agreements, is amended by adding a new § 614.4341 to read as follows:

Subpart I—Loss-Sharing Agreements

§ 614.4341 Financial assistance.

No institution shall reverse any financial assistance provided by the Capital Corporation, or under the 37-Bank Capital Preservation Agreement, or any other capital preservation/loss-sharing program that was received or accrued prior to October 1, 1986.

PART 624—FARM CREDIT SYSTEM REGULATORY ACCOUNTING PRACTICES; TEMPORARY REGULATIONS

3. The authority citation for Part 624 is revised to read as follows:

Authority: 12 U.S.C. 2001, 2012, 2072, 2093, 2122, 2159, 2205, 2254, Pub. L. 99–509.

Subpart A—Deferral and Amortization of Premiums, Interest Expenses, and Provisions for Loan Losses

4. Section 624.100 is revised to read as follows:

§ 624.100 General.

The regulations contained in this part implement the provisions of the Farm Credit Act Amendments of 1986 relating to accounting by System institutions and establish the authorities, terms, conditions, and restrictions pursuant to which a System institution may use regulatory accounting practices to defer and capitalize a portion of its interest costs, provisions for loan losses, and premiums paid to retire debt instruments, and to amortize such amounts. The regulations contained in this part are effective until December 31, 2008, for the purpose of amortizing amounts capitalized prior to December 31, 1988.

5. Section 624.103(b) is revised to read as follows:

§ 624.103 Deferral of the provisions for loan losses.

* * * * *

(b)(1) Except as provided in paragraph (b)(2) of this section, no institution is authorized to use RAP to capitalize and defer its provision for loan losses until such institution has executed an agreement with the Capital Corporation that obligates the institution to take those actions that are necessary to correct operating deficiencies, control the management of high-risk assets, and improve management efficiency.

(2) Each institution that is eligible to use RAP to capitalize and defer its provision for loan losses based on its financial condition as of December 31, 1986, shall have until March 31, 1987, to execute an agreement with the Capital Corporation.

* * * * *

6. Section 624.105 is amended by revising the introductory text of paragraph (b) to read as follows:

§ 624.105 Retirement of equities.

* * * * *

(b) The board of directors of the institution shall adopt a resolution which authorizes the issuance of stock and participation certificates at par (or face amount) and the retirement at the lesser of par (or face amount) or book value as determined in accordance with RAP subject to the following requirements:

* * * * *

Subpart B—Accounting and Disclosure

7. Section 624.111 is amended by revising paragraph (b) to read as follows:

§ 624.111 Deferral of interest costs.

* * * * *

(b) The unamortized portion of debt-related costs that are deferred or are eligible to be deferred may be considered as capital of the institution in such amounts as are necessary to maintain the value of the institution's stock and participation certificates at par or face amount as determined in accordance with RAP, where the institution has fully utilized the authorities provided for in § 624.103 of this part and has received official written notification that the Capital Corporation has made a determination that financial assistance from the Capital Corporation will not be provided to the institution.

8. Section 624.113 is amended by revising paragraph (a), the introductory text of paragraph (b), the introductory text of paragraph (b)(1), and paragraph (b)(1)(ii) to read as follows:

§ 624.113 Financial reporting and disclosure.

(a) Each institution that uses RAP in accordance with the provisions of this part shall prepare and issue its financial statements to stockholders in accordance with Part 620 of this chapter. In addition, each such institution shall disclose clearly in the management's commentary to its financial statements the purpose and use of the regulatory accounting practices adopted by the institution and shall reconcile the differences between the application of GAAP and RAP.

(b) Each Federal land bank, bank for cooperatives, and the Central Bank for Cooperatives that is deferring its provision for loan losses in accordance with §§ 624.103 and 624.111(b), each production credit association that is deferring its provision for loan losses in accordance with § 624.104 shall comply with the requirements of this paragraph.

(1) Not later than 30 days after the institution has adopted and used RAP, the institution shall provide each stockholder and holder of participation certificates with a clearly written notification of the following matters:

* * * * *

(ii) The book value of the institution's stock and participation certificates determined in accordance with GAAP.

* * * * *

§ 624.114 [Removed]

9. Section 624.114 is removed.

November 10, 1987.

David A. Hill,

Secretary, Farm Credit Administration Board.

[FR Doc. 87-26418 Filed 11-12-87; 11:57 am]

BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-NM-98-AD; Amdt. 39-5771]

Airworthiness Directives; Airbus Industrie Model A300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Industrie Model A300 series airplanes, which requires modification of fuselage Section 13 and 14 lap splices from stringer 31 and below. This amendment is prompted by reports of corrosion of these longitudinal bonded joints. This condition, if not corrected, could lead to decompression of the fuselage.

EFFECTIVE DATE: December 24, 1987.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

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

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires modification of the fuselage lap splices of Section 13 and 14 from stringer 31 and below on certain Airbus Industrie Model A300 series airplanes, was published in the **Federal Register** on August 20, 1987 (52 FR 31409).

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

The manufacturer, Airbus Industrie, suggested that wording referring to "date of manufacture" be changed to "since first flight" because the airplanes' records have recorded therein the date of first flight, but do not necessarily make note of the date of manufacture. The FAA concurs with this suggestion

and the wording of the final rule has been changed to reflect the "date since first revenue flight."

Airbus also stated that repairs made in accordance with Revision 46 of the Structural Repair Manual Section 53–10–20, may not have included proper techniques to prevent corrosion. For this reason, Airbus suggests that paragraph C.1. of the proposal be revised to require these repairs to be inspected to assure freedom from corrosion at the time the airplane is modified in accordance with Airbus Service Bulletin A300–53–206. Airbus stated that the 3,000 landing inspection, as proposed in paragraph C.1., is unduly restrictive and has been delayed to coincide with the modification since, if corrosion is to occur, it will not have built up to any significant amount. The FAA has considered this information and concurs with the comment. The final rule has been revised accordingly.

Airbus also suggested that paragraph C.2. be revised to clarify that the requirements of this paragraph are applicable only to areas repaired by "cutting out" existing structure. The FAA concurs with this clarification and the final rule has been revised accordingly.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes noted above. The FAA has determined that these changes do not increase the scope of the AD or the economic burden on any operator.

It is estimated that 14 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3,726 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $2,087,000.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, because few, if any, Airbus Industrie Model A300 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Airbus Industrie: Applicable to Model A300 series airplanes, Serial Number 1 through Serial Number 107, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent decompression of the airplane, accomplish the following:

A. Prior to the accumulation of 24,000 landings or 12 years since first revenue flight, whichever, occurs first, modify the fuselage lap splices in accordance with Airbus Service Bulletin A300–53–206, dated December 1, 1986.

B. For airplanes with more than 9 years since first revenue flight as of the effective date of this AD: The modification required by paragraph A., above, may be deferred not to exceed 26,000 landings or 15 years since first revenue fight, whichever occurs first, provided the conditions specified in paragraph 1.B. of Airbus Service Bulletin A300–53–206, dated December 1, 1986, are met.

C. For airplanes which have had lap splices repaired, as noted below, accomplish the following, as applicable:

1. For airplanes repaired with an external doubler in accordance with Chapter 53–10–20, Revision 46 of the Structural Repair Manual: Inspect the repaired area for corrosion when the modification required by paragraph A., above, is accomplished. If there is any sign of corrosion, remove the repair and modify prior to further flight, in accordance with Airbus Service Bulletin A300–53–206, dated December 1, 1986.

2. For airplanes repaired by cutout in accordance with Chapter 53–10–20 of the Structural Repair Manual, figure 701, sheet 2, Revision dated July 1, 1986, or previous issues; or repaired by cutout in accordance with the Structural Repair Manual Chapter 53–10–20, figure 701, sheet 3, Revision dated January 30, 1985, or previous issues, and where cutout repair exceeds half a frame bay: Prior to the accumulation of 16,000 landings since the repairs were installed, modify the repaired lap splices in accordance with FAA-approved methods.

3. For airplanes repaired in accordance with Airbus Service Bulletin 53–215 or 53–216: No further action is necessary in the repaired areas.

D. Modification of the longitudinal lap joints in Sections 13 and 14 in accordance with Airbus Service Bulletin A300–53–206, dated December 1, 1986, constitutes terminating action from the inspections required by AD 85–07–09 for the splices which have been modified.

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

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

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

This amendment becomes effective December 24, 1987.

Issued in Seattle, Washington, on October 30, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87–26327 Filed 11–13–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 87–NM–68–AD; Amdt. 39–5769]

Airworthiness Directives; Boeing 727 Model Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD), applicable to certain Boeing Model 727 series airplanes, that requires inspection and repair, if necessary, of the elevator rear spar. This action is prompted by reports of cracks in the elevator rear spar at the control tab hinge fitting attachment, and loose hinge fittings at the crack locations. Cracking of the rear spar and loose hinge fittings, if not corrected, could result in excessive free play of the elevator control tab and possible tab flutter.

EFFECTIVE DATE: December 24, 1987.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company,

P.O. Box 3307, Seattle, Washington 98124. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Stanton R. Wood, Airframe Branch, ANM-120S; telephone (206) 431-1924. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive that would require inspection and repair, if necessary, of the elevator rear spar on certain Boeing Model 727 series airplanes was published in the **Federal Register** on July 2, 1987 (52 FR 25023).

Interested parties have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the four comments received concerning the proposed rule.

The first two comments were that the initial inspection should be extended from the proposed 1,600 hours time-in-service to 4,000 hours time-in-service, and that the repetitive inspections should be conducted at 4,000 or 5,500 hours time-in-service instead of the proposed 3,200 hours time-in-service. The commenter stated that because the inspection requires tab removal and rigging with a tail stand it should be conducted during a scheduled "C" check. Currently most operators conduct "C" checks every 4,000 flight hours. One operator stated that the inspection should be conducted during its "Y" check, which is every 5,500 flight hours. In support of the inspection interval of 4,000 flight hours, the commenter states that it currently inspects this area every 4,000 flight hours, that it has not found many cracks, and that the ones that have been found were within the limits specified in the service bulletin. No justification was given for the 5,500 flight hour inspection interval. The FAA has reviewed existing service information and has determined that increasing the initial visual inspection and repetitive inspection interval to 4,000 hours time-in-service will not result in degradation of safety. Therefore, the FAA concurs that the time for compliance with the initial and repetitive inspections can be extended to 4,000 flight hours time-in-service.

The third comment was that there should be an alternate eddy current inspection at intervals not to exceed 5,500 flight hours. The FAA does not concur with this recommendation. There is no currently approved eddy current inspection, and the commenter provided no substantiation data to justify the inspection at a 5,500 flight hour limit.

The final comment was that the FAA should amend AD 84-22-02 because that AD also requires inspection for cracked elevator rear spars. The FAA does not concur because the affected airplanes are different and the referenced service bulletin is different.

Paragraph E. of the final rule has been revised to require the concurrence of the FAA Principal Maintenance Inspector in requests by operators for use of alternative means of compliance. The FAA has determined that this change will not increase the economic burden on any operator, nor will it increase the scope of the AD.

After careful review of the available data including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the previously listed changes.

It is estimated that 1,100 airplanes of U.S. registry will be affected by this AD, that it will take approximately 12 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $528,000.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, because few if any, Boing Model 727 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 727 series airplanes, listed in Boeing Service Bulletin 727-55-0087, dated June 20, 1986, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To detect cracks in the elevator rear spar and loose elevator control tab hinge fittings, accomplish the following:

A. Prior to the accumulation of 27,000 hours time-in-service or within the next 4,000 hours time-in-service after the effective date of this AD, whichever occurs later, visually inspect the elevator rear spar for cracks in accordance with Part I of the Accomplishment Instructions in Boeing Service Bulletin 727-55-0087 dated June 20, 1986, or later FAA-approved revisions. Repeat the inspection at intervals not to exceed 4,000 hours time-in-service.

B. If cracked parts are found as a result of the inspections required by paragraph A., above, repair prior to further flight, in accordance with Part III of the Accomplishment Instructions in Boeing Service Bulletin 727-55-0087 dated Jun 20, 1986, or later FAA-approved revisions. Cracks within the limits specified in the service bulletin may be stop drilled in accordance with Part I of the Accomplishment Instructions in the aforementioned service bulletin as an interim repair. All stop drilled cracks must be reinspected at intervals not to exceed 1,600 hours time-in-service after stop drilling and must be repaired in accordance with Part III of the Accomplishment Instructions in the service bulletin within 3,200 hours time-in-service after stop drilling. If any crack growth is detected after stop drilling, repair prior to further flight in accordance with Part III of the Accomplishment Instructions in the service bulletin.

C. Modification or repair in accordance with Parts II or III of the Accomplishment Instructions in Boeing Service Bulletin 727-55-0087 dated June 20, 1986, or later FAA-approved revisions, constitutes terminating action for the repetitive inspection requirement of this AD.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirement of this AD.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety and which has the concurrence of an FAA Principal Maintenance Inspector, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Boeing Commercial

Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective December 24, 1987.

Issued in Seattle, Washington, on October 30, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-26330 Filed 11-13-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-NM-63-AD; Amdt. 39-5768]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which requires inspection for cracking of longeron skin splice fittings and for breakage of the tension bolts common to these fittings, fuselage Body Section 48, and replacement, if necessary. This amendment is prompted by reports of cracked longeron skin splice fittings or tension bolts on six airplanes. This condition, if not corrected, could lead to the inability to withstand required loads.

EFFECTIVE DATE: December 24, 1987.

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

FOR FURTHER INFORMATION CONTACT: Mr. Richard H. Yarges, Airframe Branch, ANM-120S; telephone (206) 431-1925. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires inspections of certain Boeing Model 747 series airplanes for cracking of longeron skin splice fittings and tension bolts common to the fittings, in fuselage body section 48, and replacement, if necessary, was published in the Federal Register on July 10, 1987 (52 FR 26021).

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

The Air Transport Association (ATA) submitted comments on behalf of its members. The ATA requested longer initial compliance times for airplanes which have accumulated less than 15,000 landings after the effective date of the AD. The NPRM had proposed that inspections be accomplished within 500 landings for airplanes which have accumulated 10,000 or more landings. The justification for this suggestion was that the NPRM stated that the discoveries of cracking and breakage were made on airplanes that had accumulated between 17,813 and 19,921 landings. Based on these findings, the ATA did not believe it was likely to have cracking on airplanes which have accumulated 15,000 or fewer landings. The FAA does not agree with this comment. One instance of cracking, which was not reported in the NPRM, was detected on an airplane with only 12,090 landings. Cracking can, therefore, be expected on some airplanes having fewer than 12,090 landings. Therefore, the FAA has determined that the 10,000 landing threshold is appropriate, and the final rule is adopted as proposed in this regard.

The FAA has determined that certain wording used in the proposed AD must be revised to clarify that the required inspections are to be conducted to detect cracked longeron skin splice fittings and *broken* tension bolts common to these fittings. The proposed AD had stated that the inspections are to be conducted to detect cracked fittings or bolts. A distinction needs to be made between *cracked* bolts and *broken* bolts. The bolts cannot be inspected visually for cracks, without first being removed. The proposed Ad did not call for the removal of the bolts for the inspection and its was the FAA's intention to inspect for *broken* bolts. The FAA has determined that this revision to the wording does not increase the scope of the AD as proposed, nor does it increase the economic burden to any operator.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the following rule, with the change previously mentioned.

It is estimated that 106 airplanes of U.S. registry will be affected by this AD, that it will take approximately 6 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $25,440.

For these reasons, the FAA has determined that this regulation is not considered major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Model 747 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation saftey, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes, as listed in Boeing Alert Service Bulletin 747-53A2280, dated April 16, 1987, certificated in any category. Compliance required as indicated, unless previously accomplished.

To detect cracking of the body station (BS) 2598 longeron skin splice fittings and breakage of the tension bolts common to the fittings, accomplish the following:

A. Prior to the accumulation of 10,000 landings, or within 500 landings after the effective date of this AD, whichever occurs later, perform a detailed visual inspection of BS 2598 longeron skin splice fittings for cracking, and tension bolts common to these fittings for breakage, in accordance with Boeing Alert Service Bulletin 747-53A2280, dated April 16, 1987, or later FAA-approved revision. Reinspect the splice fittings and tension bolts common to stringer 11 longeron

at intervals not to exceed 2,000 landings; and reinspect the splice fitting and tension bolts common to stringer 23 longeron at intervals not to exceed 4,000 landings.

B. If any longeron skin splice fitting is cracked, prior to further flight replace the fitting and the tension bolt common to that fitting, in accordance with Boeing Alert Service Bulletin 747–53A2280, dated April 16, 1987, or later FAA-approved revision.

C. If a tension bolt is broken, but the fitting to which it is common is not cracked, prior to further flight, replace the bolt in accordance with Boeing Alert Service Bulletin 747–53A2280, dated April 16, 1987, or later FAA-approved revision. This constitutes terminating action for the requirement to inspect the tension bolt.

D. Prior to the accumulation of 10,000 landings on new (replaced) BS 2598 longeron skin splice fittings, perform a detailed visual inspection of the splice fittings for cracking, in accordance with Boeing Alert Service Bulletin 747–53A2280, dated April 16, 1987, or later FAA-approved revision. Reinspect the splice fittings common to stringer 11 longeron at intervals not to exceed 3,000 landings; and reinspect the splice fittings common to stringer 23 longeron at intervals not to exceed 6,000 landings. Replace cracked fittings prior to further flight, in accordance with the service bulletin.

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

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

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

This amendment becomes effective December 24, 1987.

Issued in Seattle, Washington, on October 30, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87–26328 Filed 11–13–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 87–NM–44–AD; Amdt. 39–5767]

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive, applicable to EMBRAER Model EMB–120 series airplanes, which requires inspection of the main landing gear outboard wheel half for cracks and replacement, if necessary. This amendment is prompted by a report of cracking in the outboard wheel half. This condition, if not corrected, could result in loss of control of the airplane.

EFFECTIVE DATE: December 24, 1987.

ADDRESSES: The applicable service information may be obtained from BFGoodrich, Aerospace and Defense Division, Aircraft Wheel and Brake Operations, P.O. Box 340, Troy, Ohio 45373. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the FAA, Central Region, Atlanta Aircraft Certification Office, Suite 210, 1669 Phoenix Parkway, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis A. Jackson, Aerospace Engineer, ACE–120A, FAA, Central Region, Atlanta Aircraft Certification Office, Suite 210, 1669 Phoenix Parkway, Atlanta, Georgia 30349; telephone (404) 991–2910.

SUPPLEMENTARY INFORMATION: A proposal to amend Park 39 of the Federal Aviation Regulations to include an airworthiness directive which requires inspection of the main landing gear outboard wheel half on Model EMB–120 series airplanes, and replacement, if necessary, was published in the **Federal Register** on May 13, 1987 (52 FR 17959). This action was prompted by a report of a crack found on an EMBRAER Model EMB–120 airplane in a flange of the outboard wheel half, BFGoodrich part number 300–603. The cause of the cracking has been attributed to improper forging techniques used during manufacture of the wheel. This wheel is used only on EMBRAER Model EMB–120 series airplanes. A cracked wheel could lead to wheel failure and resultant loss of control of the airplance.

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

The airplane manufacturer, EMBRAER, questioned the necessity of this AD action. As to the unsafe condition addressed in the proposal, EMBRAER stated that a wheel crack may result only in tire deflation, without any additional risk to the other systems, and that the aircraft controllability with a deflated tire was successfully demonstrated during the aircraft certification process. The FAA does not concur that an AD is not necessary. The FAA has determined that an unsafe condition exists if a wheel failure should occur during a critical ground operation, which could lead to loss of control of the airplane. Accomplishment of the requirements of this AD would preclude the potential for that unsafe condition.

EMBRAER also stated that all wheels identified in the service bulletin have already been removed from service or have passed the inspections called out in the service bulletin, and that certain newer serial-numbered airplanes are being delivered with wheel serial numbers that are not listed in the service bulletin. The FAA has subsequently contacted the wheel manufacturer for further information as to this statement. The wheel manufacturer advised that all suspect wheels will be inspected by October 1987, and that the remaining wheels to be inspected are installed on airplanes located (and registered) in Brazil and Europe. the FAA has determined that this AD action is necessary to ensure that all wheels will be inspected in a timely manner, including those installed on aircraft which may later be imported to the U.S.

EMBRAER also suggested that since the wheel is a Technical Standard Order (TSO) part, the applicability of the AD should be towards the TSO part, not towards the airplane. The FAA does not concur. The FAA is obligated to issue AD's with applicability that will provide maximum clarity for the affected public. Since the suspect wheels are used exclusively on the Model EMB–120 series airplanes, FAA has determined that it is appropriate to issue this AD with applicability to the airplane, so that the affected owners and operators of Model EMB–120 airplanes will be most easily informed.

The manufacturer of the wheels, BFGoodrich, recommended that the AD not be issued for several reasons:

a. A total of 188 wheels, out of the 272 wheels listed in the service bulletin, have been inspected, and the remaining wheels are expected to be inspected by October 1, 1987.

b. Additional testing was conducted on a wheel with internal conditions similar to the wheel that failed in service, and the fatigue crack propagation rate was conservative in relation to the inspection measures outlined in the service bulletin.

c. The low field failure rate, inspection results, and wheel replacement procedures have substantially reduced the risk of subsequent failures.

d. Procedures have been instituted to eliminate the shipment of suspect wheels to the U.S.

e. Ultrasonic inspections are being conducted on new factory parts and the vendor is developing new inspection techniques.

The FAA does not concur that AD action is not necessary. Although the statements above indicate that measures are being taken to preclude the condition from developing in the future on these types of wheels, the FAA has determined that all existing suspect wheels must be inspected in a timely manner and in accordance with existing recommended inspection techniques, in order to preclude the potential for an unsafe condition.

BFGoodrich also recommended that certain statements in paragraph A.2. be revised. Specifically, the phrases " * * * each affected wheel half is found free of defects * * * " and " * * * any wheel found to be defective * * * " should be changed to read " * * * each affected wheel half is found free of cracks" and " * * * any wheel found to be cracked * * * " The FAA agrees that this was the intent of the paragraph, and has revised the final rule accordingly.

Since issuance of the proposal, BFGoodrich has issued Revision 1 to Service Bulletin 467, dated June 19, 1987. The only change in this revision is a listing as of June 19, 1987, of those part numbers which have been inspected and those remaining to be inspected. The final rule has been revised to reflect this latest version of the service bulletin. The FAA has determined that this change will not increase the scope of the AD, nor will it increase the economic burden of any operator.

Paragraph C. of the final rule has been revised to require the concurrence of an FAA Principal Maintenance Inspector in requests by operators for use of alternate means of compliance. The FAA has detemined that this change will not increase the economic burden on any operator, nor will it increase the scope of the AD.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the following rule, with the changes previously noted.

It is estimated that 22 airplanes of U.S. registry will be affected by this AD, that it will take approximately 7 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $6,160.

For the reasons discussed above, the FAA has determined that his regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, because of the minimal cost of compliance per airplane ($280). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive.

Empresa Brasileira De Aeronautica S.A. (EMBRAER): Applies to Model EMB–120 series airplanes, certificated in any category, equipped with outboard main landing gear wheel halves identified by serial numbers in BFGoodrich Service Bulletin 467, Revision 1, dated June 19, 1987. Compliance required as indicated, unless perviously accomplished.

To prevent failure of the main landing gear outboard wheel half, accomplish the following:

A. Within the next 200 landings after the effective date of this AD, inspect the main landing gear outboard wheel halves, part number 300–603, for cracking, using visual and eddy current methods, in accordance with BFGoodrich Service Bulletin 467, Revision 1, dated June 19, 1987.

1. If crack is found, prior to further flight replace the wheel half with an airworthy FAA-approved assembly.

2. If no cracks are found, repeat the visual and eddy current inspections at intervals not to exceed 300 landings, until such time as an ultrasonic inspection is accomplished and each affected wheel half is found free of cracks and identified with the impression stamping in accordance with Figure 1 of BFGoodrich Service Bulletin 467, Revision 1, dated June 19, 1987. Any wheel found to be cracked must be replaced prior to further flight with an airworthy FAA-approved assembly.

B. For the purposes of complying with this AD, the number of landings may be determined by substituting one landing for each ½ hour of flight, unless the operator substantiates a different flight hours-to-landing ratio. This substantiation must be submitted to and approved by the Manager, Atlanta Aircraft Certification Office, FAA, Central Region.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety and which has the concurrence of an FAA Principal Maintenance Inspector, may be used when approved by the Manager, Atlanta Aircraft Certification Office, FAA, Central Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to BFGoodrich, Aerospace and Defense Division, Aircraft Wheel and Brake Operations, P.O. Box 340, Troy, Ohio 45373. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the FAA, Central Region, Atlanta Aircraft Certification Office, Suite 210, 1669 Phoenix Parkway, Atlanta, Georgia.

The amendment becomes effective December 24, 1987.

Issued in Seattle, Washington, on October 30, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87–26329 Filed 11–13–87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 25429; Amdt. No. 1360]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard

Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the **Federal Register** on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFS-230), Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC on October 30, 1987.

Robert L. Goodrich,

Director of Flight Standards.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 GMT on the dates specified, as follows:

PART 97—[AMENDED]

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . Effective January 14, 1988

Deadhorse, AK—Deadhorse, VOR RWY 4, Amdt. 3
Deadhorse, AK—Deadhorse, VOR/DME RWY 4, Amdt. 2
Deadhorse, AK—Deadhorse, VOR RWY 22, Amdt. 5
Deadhorse, AK—Deadhorse, LOC/DME RWY 22, Amdt. 6
Deadhorse, AK—Deadhorse, NDB-A, Amdt. 2
Deadhorse, AK—Deadhorse, ILS/DME RWY 4, Amdt. 6
Soldotna, AK—Soldotna, RNAV RWY 7, Amdt. 1
Soldotna, AK—Soldotna, RNAV RWY 25, Amdt. 1

Slidell, LA—Slidell, VOR/DME RWY 17, Amdt. 2
Slidell, LA—Slidell, NDB RWY 17, Orig.
Baltimore, MD—Baltimore-Washington Intl., RADAR 1, Amdt. 11
Lumberton, NJ—Flying W, VOR–A, Amdt. 1
Penn Yan, NY—Penn Yan, NDB RWY 28, Amdt. 5
Syracuse, NY—Syracuse Hancock Intl., VOR RWY 14, Amdt. 19
Syracuse, NY—Syracuse Hancock Intl., NDB RWY 28, Amdt. 26
Syracuse, NY—Syracuse Hancock Intl., ILS RWY 28, Amdt. 29
Watertown, SD—Watertown Muni, NDB RWY 35, Amdt. 6
Watertown, SD—Watertown Muni, ILS RWY 35, Amdt. 8
Graham, TX—Graham Muni, NDB RWY 21, Orig.
Newport News, VA—Patrick Henry Intl., LOC BC RWY 25, Amdt. 13
Newport News, VA—Patrick Henry Intl., NDB RWY 2, Amdt. 4
Newport News, VA—Patrick Henry Intl., NDB RWY 20, Amdt. 3
Newport News, VA—Patrick Henry Intl., NDB RWY 25, Amdt. 3
Newport News, VA—Patrick Henry Intl., ILS RWY 7, Amdt. 29
Appleton, WI—Outagamie County, VOR/DME RWY 3, Amdt. 4
Appleton, WI—Outagamie County, LOC BC RWY 21, Amdt. 5
Appleton, WI—Outagamie County, NDB RWY 3, Amdt. 11
Appleton, WI—Outagamie County, NDB RWY 11, Amdt. 4
Appleton, WI—Outagamie County, NDB RWY 29, Amdt. 5
Appleton, WI—Outagamie County, ILS RWY 3, Amdt. 13
Appleton, WI—Outagamie County, RNAV RWY 29, Amdt. 5
Evanston, WY—Evanston-Uinta County Burns Field, VOR/DME–A, Orig

. . . Effective December 17, 1987

Fort Myers, FL—Page Field, VOR RWY 13, Amdt. 7
Naples, FL—Naples Muni, NDB RWY 4, Amdt. 5
Tallahassee/Havana, FL—Tallahassee Commercial, VOR–A, Amdt. 5
Covington, GA—Covington Muni, VOR/DME RWY 9, Amdt. 1
Hazlehurst, GA—Hazlehurst, NDB RWY 14, Amdt. 2
Marion, IL—Williamson County Regional, ILS RWY 20, Amdt. 10
Moline, IL—Quad-City, LOC RWY 27, Amdt. 5
Moline, IL—Quad-City, ILS RWY 9, Amdt. 28
Moline, IL—Quad-City, RADAR–1, Amdt. 8
Moline, IL—Quad-City, RNAV RWY 31, Amdt. 9
Gulfport, MS—Gulfport-Biloxi Rgnl, NDB RWY 13, Amdt. 9
Gulfport, MS—Gulfport-Biloxi Rgnl, ILS RWY 13, Amdt. 11

. . . . Effective October 27, 1987

York, PA—York, NDB RWY 16, Amdt. 1

. . . Effective October 22, 1987

Fort Wayne, IN—Fort Wayne Muni/Baer Fld/, ILS RWY 5, Amdt. 11

. . . Effective October 21, 1987

Evanston, WY—Evanston-Uinta County Burns Field, VOR/DME RWY 23, Orig.

. . . Effective September 9, 1987

Salinas, CA—Salinas Muni, VOR RWY 13, Amdt. 10

The FAA published an Amendment in Docket No. *25392*, Amdt. No. *1357* to Part 97 of the Federal Aviation Regulations (VOL 52 FR No. 187 page *36234;* dated Monday, September 28, 1987) under Section 97. 25 effective 19 Nov 87, which is hereby amended as follows:

Jefferson City, MO—Jefferson City Meml, LOC BC RWY 12, Orig. EFF 19 NOV 87 is hereby rescinded.

[FR Doc. 87–26325 Filed 11–13–87; 8:45 am]

BILLING CODE 4910–13–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1245

Patents and Other Intellectual Property Rights

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: NASA is amending 14 CFR Part 1245 by revising Subpart 1, "Patent Waiver Regulations." This revision will consolidate the Patent Waiver Regulations published in the **Federal Register** on July 17, 1981 (46 FR 37023), the Interim Patent Waiver Regulations published in the **Federal Register** on May 17, 1983 (48 FR 22132), and the proposed rule published in the **Federal Register** on July 1, 1987 (52 FR 24477). These regulations conform to the requirements of Pub. L. 96–517 and Pub. L. 98–620 and the implementing policies, procedures, and guidelines set forth in OMB Bulletin No. 81–22 dated June 30, 1981, and the February 18, 1983, Presidential Memorandum on Government Patent Policy. This is intended to increase clarity and provide for an improved reading and understanding of the regulations. These changes do not alter any rights ensuring to either the Government or to a NASA contractor.

EFFECTIVE DATE: November 16, 1987.

ADDRESS: General Counsel, Code G, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Robert F. Kempf, 202–453–2424.

SUPPLEMENTARY INFORMATION: NASA published a proposed rule in the **Federal Register** on July 1, 1987, (52 FR 24477) which requested that written comments must be received within 45 days of publication. The only comment received notified NASA that the Regulatory Flexibility Act Statement which is usually found in the Supplementary Information was missing. That has been corrected and the Regulatory Flexibility Act statement is found in the next paragraph. Since no comments were received which change or impact the proposed rule, it is hereby adopted as a final rule.

The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, since it will not exert a significant economic impact on a substantial number of small entities.

2. This rule is not a major rule as defined in Executive Order 12291.

List of Subjects in CFR Part 1245

Inventions and Contributions Board, Inventions and patents, Scientific and technical contributions, Space Act Monetary Awards Program.

For reasons set out in the Preamble, 14 CFR Part 1245 is amended as follows:

PART 1245—PATENTS AND OTHER INTELLECTUAL PROPERTY RIGHTS

1. Subpart 1 is revised to read as follows:

Subpart 1—Patent Waiver Regulations

Sec.
1245.100 Scope.
1245.101 Applicability.
1245.102 Definitions and terms.
1245.103 Policy.
1245.104 Advance waivers.
1245.105 Waiver after reporting inventions.
1245.106 Waiver of foreign rights.
1245.107 Reservations.
1245.108 License to contractor.
1245.109 Assignment of title to NASA.
1245.110 Content of petitions.
1245.111 Submission of petitions.
1245.112 Notice of proposed Board action and reconsideration.
1245.113 Hearing procedure.
1245.114 Findings and recommendations of the Board.
1245.115 Action by the Administrator.
1245.116 Miscellaneous provisions.
1245.117 March-in and waiver revocation procedures.
1245.118 Record of decisions.

Subpart 1—Patent Waiver Regulations

Authority: 42 U.S.C. 2457, 35 U.S.C. 200 et seq.

§ 1245.100 Scope.

This subpart prescribes regulations for the waiver of rights of the Government of the United States to inventions made under NASA contract in conformity with section 305 of the National Aeronautics

and Space Act of 1958, as amended (42 U.S.C. 2457).

§ 1245.101 Applicability.

The provisions of the subpart apply to all inventions made or which may be made under conditions enabling the Administrator to determine that the rights therein reside in the Government of the United States under section 305(a) of the National Aeronautics and Space Act of 1958, as amended, 42 U.S.C. 2457(a). The provisions do not apply to inventions made under any contract, grant, or cooperative agreement with a nonprofit organization or small business firm that are afforded the disposition of rights as provided in 35 U.S.C. 200–204 (Pub. L. 96–517, 94 Stat. 3019, 3020, 3022 and 3023; and Pub. L. 98–620, 98 Stat. 3364–3367).

§ 1245.102 Definitions and terms.

As used in this subpart:

(a) "Contract" means any actual or proposed contract, agreement, understanding, or other arrangement with the National Aeronautics and Space Administration (NASA) or another Government agency on NASA's behalf, including any assignment, substitution of parties, or subcontract executed or entered into thereunder, and including NASA grants awarded under the authority of 42 U.S.C. 1891–1893.

(b) "Contractor" means the party who has undertaken to perform work under a contract or subcontract.

(c) "Invention" includes any art, method, process, machine, manufacture, design, or composition or matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States of America or any foreign country.

(d) "Made," when used in relation to any invention, means the conception or first actual reduction to practice of such invention.

(e) "Practical Application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are to the extent permitted by law or Govenment regulations available to the public on reasonable terms.

(f) "Board" means the NASA Inventions and Contributions Board established by the Administrator of NASA within the Administration under section 305(f) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457(f)).

(g) "Chairperson" means Chairperson of the NASA Inventions and Contributions Board.

(h) "Petitioner" means a contractor or prospective contractor who requests that the Administrator waive rights in an invention or class of inventions made or which may be made under a NASA contract. In the case of an identified invention, the petitioner may be the inventor(s).

(i) "Government agency" includes any executive department, independent commission, board, office, agency, administration, authority, Government corporation, or other Government establishment of the executive branch of the Government of the United States of America.

(j) "Administrator" means the Administrator of the National Aeronautics and Space Administration or the Administrator's duly authorized representative.

§ 1245.103 Policy.

(a) In implementing the provisions of section 305(f) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457(f)), and in determining when the interests of the United States would be served by waiver of all or any part of the rights of the United States in inventions made in the performance of work under NASA contracts, the Administrator will be guided by the objectives set forth in the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2451–2477) and by the basic policy of the Presidential Memorandum and Statement of Government Patent Policy to the Heads of the Executive Departments and agencies dated February 18, 1983. Among the most important goals are to provide incentives to foster inventiveness and encourage the reporting of inventions made under NASA contracts, to provide for the widest practicable dissemination of new technology resulting from NASA programs, and to promote early utilization, expeditious development, and continued availability of this new technology for commercial purposes and the public benefit. In applying this regulation, both the need for incentives to draw forth private initiatives and the need to promote healthy competition in industry must be weighed.

(b) Several different situations arise when waiver of all or any part of the rights of the United States may be requested and are prescribed in §§ 1245.104–1245.106. Under § 1245.104, advance waiver of rights to any or all of the inventions which may be made under a contract may be requested prior to the execution of the contract, or within 30 days after execution of the contract. Waiver of rights to an identified invention made and reported under a contract are to be requested under § 1245.105, and may be requested under this provision even though a request under § 1245.104 was not made, or if made, was not granted. Waiver of foreign rights under § 1245.106 may be requested concurrently with domestic rights under § 1245.104 or § 1245.105, or may be made independently.

(c) With respect to inventions which may be or are made or conceived in the course of or under contracts for research, development or demonstration work awarded by NASA on behalf of the Department of Energy (DOE) or in support of a DOE program, on a reimbursable basis pursuant to agreement between DOE and NASA, the waiver policy, regulations, and procedures of DOE will be applied. NASA will normally grant waiver of rights to inventions made under contracts awarded by NASA on behalf of, or in support of, programs funded by another Government agency, unless the funding agency recommends and justifies denial of the waiver. See § 1245.110(c) and § 1245.111(b).

§ 1245.104 Advance waivers.

(a) The provisions of this section apply to petitions for waiver of domestic rights to any or all of the inventions which may be made under a contract.

(b) The NASA Inventions and Contributions Board normally will recommend grant of a request for advance waiver of domestic rights submitted prior to execution of contract or within 30 days after execution of the contract unless the Board finds that the interests of the United States will be better served by restricting or eliminating all or part of the rights of the contractor in one or more of the following situations:

(1) When the contractor is not located in the United States or does not have a place of business in the United States or is subject to the control of a foreign government;

(2) When a determination has been made by Government authority which is authorized by statute or Executive Order to conduct foreign intelligence or counter-intelligence activities that the restriction or elimination of the right to retain title to any inventions made in the performance of work under the contract is necessary to protect the security of such activities; or

(3) Where the Board finds that exceptional circumstances exist, such that restriction or elimination of the

right to retain title will better promote one or more of the following objectives:

(i) Promoting the utilization of inventions arising from federally supported research and development;

(ii) Encouraging maximum participation of industry in federally-supported research and development;

(iii) Ensuring that inventions are used in a manner to promote free competition and enterprise;

(iv) Promoting the commercialization and public availability of inventions made in the United States by United States industry and labor; and

(v) Ensuring that the Government obtains sufficient rights in federally-supported inventions to meet the needs of the Government and protect the public against nonuse or unreasonable use of inventions.

(c)(1) An advance waiver, when granted, will be subject to the reservations set forth in § 1245.107. Normally, the reservations of § 1245.107(a), License to the Government, and § 1245.107(b), March-in rights, will apply. However, should one or more of the situations set forth in paragraphs (b)(1) through (b)(3), of this section exist, rather than denying the advance waiver request, the Board may recommend restricting or eliminating only part of the rights of the contractor to the extent necessary to address the particular situation, consistent with the policy and goals of § 1245.103. In that event, the waiver grant will be subject to additional reservations as provided for in § 1245.107(c).

(2) An advance waiver, when granted, will apply only to inventions reported to NASA under the applicable terms of the contract and a designation made within 6 months of the time of reporting (or a reasonable time thereafter permitted for good cause shown) that the contractor elects title to the invention and intends to file or has filed a U.S. patent application. Such election will be made by notification in writing to the patent representative designated in the contract. Title to all other inventions made under the contract are subject to section 305(a) of the National Aeronautics and Space Act of 1958, as amended, 42 U.S.C. 2457(a). The granting of the advance waiver does not otherwise relieve a contractor of any of the invention identification or reporting requirements set forth in the applicable patent rights clause in the contract.

(3) The waiver shall extend to the invention claimed in any patent application filed on the reported invention, including any subsequent divisional or continuation application thereof, provided the claims of the subsequent application do not substantially change the scope of the reported invention.

(d) When a petition for waiver is submitted under paragraph (b) of this section, prior to contract execution, it will be processed expeditiously so that a decision on the petition may be reached prior to execution of the contract. However, if there is insufficient time or insufficient information is presented, or for other reasons which do not permit a recommendation to be made without unduly delaying execution of the contract, the Board will inform the contracting officer that no recommendation has been made and the reasons therefor. The contracting officer will then notify the petitioner of the Board's action.

(e) After notification by the contracting officer under paragraph (d) of this section, the petitioner may, upon its execution of the contract, or within 30 days, request the Board to reconsider the matter under paragraph (b) of this section either on the record or with any additional statements submitted in the subpart of the original petition.

(f) A waiver granted pursuant to a petition submitted under this section shall extend to any contract changes, modifications, or supplemental agreements, so long as the purpose of the contract or the scope of work to be performed is not substantially changed.

§ 1245.105 Waiver after reporting inventions.

(a) The provisions of this section apply to petitions for waiver of domestic rights to identified inventions which have been reported to NASA and to which a waiver of rights has not been granted pursuant to § 1245.104.

(b)(1) When an individual identified invention has been reported to NASA under the applicable terms of the contract and waiver of rights has not been granted under § 1245.104, the Board normally will recommend grant of a request for waiver of domestic rights to such invention if the request is received within 8 months of first disclosure to NASA (or such longer period that the Board may permit for good cause shown), unless the Board finds that one or more of the situations set forth in § 1245.104(b)(3) (i) through (v) exist. When granted, the waiver will be subject to the reservations set forth in § 1245.107 in the same manner as discussed in § 1245.104(c)(1).

(2) The waiver shall extend to the invention claimed in the patent application filed on the reported invention, including any subsequent divisional or continuation application thereof, provided the claims of the subsequent application do not substantially change the scope of the reported invention.

§ 1245.106 Waiver of foreign rights.

(a) The Board will consider the waiver of foreign rights in any designated country concurrently with the waiver of domestic rights when so requested under § 1245.104 or § 1245.105.

(b) The Board will also consider a separate request for foreign rights for an individual identified invention in any designated country if a request was not made pursuant to paragraph (a) of this section, or for countries not designated pursuant to paragraph (a) of this section.

(c) Waiver of foreign rights will normally be granted under paragraph (a) or paragraph (b) of this section in any designated country unless: (1) The Board finds that the economic interests of the United States will not be served thereby; or unless (2) in the case of an individual identified invention under paragraph (b) of this section, NASA has determined, prior to the request, to file a patent application in the designated country.

(d) If, subsequent to the granting of the petition for foreign rights, the petitioner requests and designates additional countries in which it wishes to secure patents, the Chairperson may grant such request, in whole or in part, without further action by the Board.

§ 1245.107 Reservations.

(a) *License to the Government.* Any invention for which waiver of domestic or foreign rights has been granted under this subpart shall be subject to the reservation by the Administrator of an irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of the invention throughout the world by or on behalf of the United States or any foreign government pursuant to any treaty or agreement with the United States.

(b) *March-in rights.* For any invention for which waiver of rights has been granted under this subpart, NASA has the right in accordance with 35 U.S.C. 203 and 210, and with the procedures set forth in § 1245.117 and 37 CFR 401.6, to require the contractor, an assignee, or exclusive licensee of the invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the contractor, assignee, or exclusive licensee refuses such a request, NASA has the right to grant such a license itself if NASA determines that:

(1) Such action is necessary because the contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the invention in such field of use;

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the contractor, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the contractor, assignee, or licensees; or

(4) Such action is necessary because the agreement required by the "Preference for United States industry" has not been obtained or waived or because a licensee of the exclusive right to use or sell any invention in the United States is in breach of such agreement.

(c) *Additional reservations.* In the event one or more of the situations set forth in § 1245.104 (b)(1) through (b)(3) exist, the Board may determine to recommend partial grant of the waiver request (rather than denial) by making the grant subject to additional reservations (than those set forth in (a) and (b) of this section) to the extent necessary to address the particular situation. Such additional reservations may include, but not be limited to, field-of-use or terrestrial-use limitations, or additions to the march-in rights.

§ 1245.108 License to Contractor.

(a) Each contractor reporting an invention is granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on the invention and in any resulting patent in which the Government acquires title. The license extends to the contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the contractor is a party and includes the right to grant sublicenses of the same scope to the extent the contractor was legally obligated to do so at the time the contract was awarded. The license and right is transferable only with the approval of the Administrator except when transferred to the successor of that part of the contractor's business to which the invention pertains.

(b) The contractor's domestic license may be revoked or modified by the Administrator to the extent necessary to achieve expeditious practical application of the invention pursuant to an application for an exclusive license submitted in accordance with the Licensing of NASA Inventions (14 CFR 1245.2). This license will not be revoked in that field of use and/or the geographical areas in which the contractor has achieved practical application and continues to make the benefits of the invention available to the public on reasonable terms. The license in any foreign country may be revoked or modified at the discretion of the Administrator to the extent the contractor, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(c) Before revocation or modification of the license, the contractor will be provided a written notice of the Administrator's intention to revoke or modify the license, and the contractor will be allowed 30 days (or any other time as may be allowed by the Administrator for good cause shown by the contractor) after the notice to show cause why the license should not be revoked or modified. The contractor shall have the right to appeal, under the Licensing of NASA Inventions (14 CFR 1245.2), any decision concerning the revocation or modification of its license.

§ 1245.109 Assignment of title to NASA.

(a) The instrument of waiver set forth in § 1245.115(c) shall be voided by NASA with respect to the domestic title to any invention for which a patent application has not been filed within 1 year (or a reasonable time thereafter for good cause shown) from notification to NASA of election of title, as required by § 1245.104(c)(2), for an advanced waiver pursuant to § 1245.104, or within 1 year from the granting of a waiver for an individual invention granted pursuant to § 1245.105.

(b) The instrument of waiver set forth in § 1245.115(c) shall be voided by NASA with respect to title in any foreign country for which waiver has been granted pursuant to § 1245.106, if a patent application has not been filed in that country (or in the European Patent Office or under the Patent Cooperation Treaty and that country designated) within either 10 months (or a reasonable time thereafter for good cause shown) from the date a corresponding U.S. patent application has been filed or 6 months (or a reasonable time thereafter for good cause shown) from the date a license is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(c) In any country in which the waiver recipient decides not to continue prosecution of any application, to pay maintenance fees on, or defend in reexamination or opposition proceedings on a patent on a waived invention, the waiver recipient shall notify the patent representative within sufficient time for NASA to continue prosecution, pay the maintenance fee or defend the reexamination or opposition, and upon written request, convey title to NASA and execute all papers necessary for NASA to proceed with the appropriate action.

§ 1245.110 Content of petitions.

(a) Each request for waiver of domestic or foreign rights under § 1245.104, § 1245.105, or § 1245.106 shall be by petition to the Administrator and shall include:

(1) An identification of the petitioner, its place of business, and address;

(2) If the petitioner is represented by counsel, the name, address, and telephone number of the counsel;

(3) A citation to the section (§ 1245.104, § 1245.105, or § 1245.106) under which the petition is submitted, the nature and extent of the rights requested, and a positive statement that waiver of rights under the cited section is being requested;

(4) If the petitioner is an employee inventor of the contractor, a statement from the contractor that the contractor does not object to this petition.

(5) Information identifying the proposed contract or resulting contract, if any;

(6) A designation of the country or countries, the United States of America and/or foreign, in which waiver of title is requested;

(7) A copy of the invention disclosure if the request is for an individual identified invention (under § 1245.105);

(8) The name, address, and telephone number of the party with whom the Board is to communicate when the request is acted upon;

(9) Whether the petitioner is an entity of or under the control of a foreign government;

(10) The signature of the petitioner or its authorized representative; and

(11) The date of the petition.

(b) No specific forms need be used. Requests for advanced waiver should, preferably, be included with the proposal, but in any event in advance of negotiations.

(c) *Petitions for waiver under contracts funded by another agency.* The content of the petitions for waiver of title to inventions made under contracts awarded by NASA on behalf of the Department of Energy under § 1245.103(c) shall follow the procedures and form prescribed by and shall be acted on by that agency. Petitions under contracts awarded by NASA on behalf of other agencies will be coordinated

with the agency before action is taken by the Board.

§ 1245.111 Submission of petitions.

(a) Petitions for advance waiver of domestic rights under § 1245.104 or for advance waiver of foreign rights under § 1245.106 presented prior to contract execution, must be submitted to the contracting officer. Any petition submitted by a prospective contractor and selected for negotiation of a contract will be processed and forwarded to the Board for consideration. All other petitions will be submitted to the patent representative designated in the contract for processing prior to forwarding to the Board.

(b) A copy of any waiver petitions submitted under § 1245.103(c) should be forwarded to the appropriate NASA field installation patent counsel, if not supplied earlier, for (1) transmittal to the Department of Energy for processing by that agency, or (2) coordination with other agencies, as applicable.

§ 1245.112 Notice of proposed Board action and reconsideration.

(a) *Notice.* Except as provided by § 1245.104(d), the Board will notify the petitioner, through the contracting officer, with respect to petitions for advance waiver prior to contract execution, and directly to the petitioner for all other petitions:

(1) Whether it proposes to recommend to the Administrator that the petition be:

(i) Granted in the extent requested;

(ii) Granted in an extent different from that requested; or

(iii) Denied.

(2) Of the reasons for any recommended action adverse to or different from the waiver of rights requested by the petitioner.

(b) *Request for reconsideration and statements required.* (1) If, under paragraph (a) of this section, the Board notifies the petitioner that the Board proposes to recommend action adverse to or different from the waiver requested, the petitioner may, within the period as the Board may set, but not less than 15 days from the notification, request reconsideration by the Board.

(2) If reconsideration has been requested within the prescribed time, the petitioner shall, within 30 days from the date of the request for reconsideration, or within any other time as the Board may set, file its statement setting forth the points, authorities, arguments, and any additional material on which it relies.

(3) Upon filing of the reconsideration statement by the petitioner, the petition will be assigned for reconsideration by the Board upon the contents of the petition, the record, and the reconsideration statement submitted by the petitioner.

(4) The Board, after its reconsideration, will promptly notify the petitioner of its proposed recommendation to the Administrator. If the Board's proposed action is adverse to, or different from, the waiver requested, the petitioner may request an oral hearing within the time as the Board has set.

§ 1245.113 Hearing procedure.

(a) If the petitioner requests an oral hearing within the time set, under § 1245.112(b)(4), the Board shall set the time and place for the hearing and shall notify the petitioner.

(b) Oral hearings held by the Board shall be open to the public and shall be held in accordance with the following procedures:

(1) Oral hearings shall be conducted in an informal manner, with the objective of providing the petitioner with a full opportunity to present facts and arguments in support of the petition. Evidence may be presented through means of witnesses, exhibits, and visual aids as are arranged for by the petitioner. Petitioner may be represented by any person including its attorney. While proceedings will be ex parte, members of the Board and its counsel may address questions to witnesses called by the petitioner, and the Board may, at its option, enlist the aid of technical advisors or expert witnesses. Any person present at the hearing may make a statement for the record.

(2) A transcript or equivalent record of the proceeding shall be arranged for by the Board. The petitioner shall submit for the record a copy of any exhibit or visual aid utilized during the hearing.

§ 1245.114 Findings and recommendations of the Board.

(a) *Findings of the Board.* The Board shall consider the petition, the NASA contract, if relevant, the goals cited in § 1245.103(a), the effect of the waiver on the objectives of the related NASA programs, and any other available facts and information presented to the Board by an interested party. The Board shall document its findings.

(b) *Recommendation of the Board.* (1) Except as provided in § 1245.104(d), after making the findings of fact, the Board shall formulate its proposed recommendation to the Administrator as to the grant of waiver as requested, the grant of waiver upon terms other than as requested, or denial of waiver.

(2) If the Board proposes to recommend, initially or upon reconsideration or after oral hearing, that the petition be granted in the extent requested or, in other cases, where the petitioner does not request reconsideration or a hearing during the period set for the action or informs the Board that the action will not be requested, or fails to file the required statements within the prescribed time, the Board shall transmit the petition, a summary record of hearing proceedings, if applicable, its findings of fact, and its recommendation to the Administrator.

§ 1245.115 Action by the Administrator.

(a) After receiving the transmittal from the Board, the Administrator shall determine, in accordance with the policy of § 1245.103, whether or not to grant any petition for waiver of rights to the petitioner.

(b) In the event of denial of the petition by the Administrator, a written notice of such denial will be promptly transmitted by the Board to the petitioner. The written notice will be accompanied with a statement of the grounds for denial.

(c) If the waiver is granted by the Administrator, the petitioner shall be sent for execution, an instrument of waiver confirmatory of the conditions and reservations of the waiver grant. The petitioner shall promptly return the executed copy of the instrument of waiver to the Chairperson.

§ 1245.116 Miscellaneous provisions.

(a) *Filing of patent applications and reimbursement of costs.* In order to protect the interests of the Government and the petitioner in inventions, a petitioner may file United States patent applications for such inventions prior to the Administrator's determination on a petition for waiver. If an application on an identified invention is filed during the pendency of the petition, or within 60 days prior to the receipt of a petition, NASA will reimburse the petitioner for any reasonable costs of the filing and patent prosecution that may have occurred, *provided:*

(1) Similar patent filing and prosecution costs are not normally reimbursed to the petitioner as direct or indirect costs chargeable to the Government contracts;

(2) The petition is ultimately denied with respect to domestic rights, or with respect to foreign and domestic rights, if both are requested, and

(3) Prior to reimbursement, petitioner assigns the application to the United States of America as represented by the

Administrator of the National Aeronautics and Space Administration.

(b) *Statement of Government rights.* The waiver recipient shall include, within the specification of any United States patent application and any patent issuing thereon for a waived invention, the following statement:

The invention described herein was made in the performance of work under NASA Contract No. _____, and is subject to the provisions of Section 305 of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457).

(c) *License to the Government.* The waiver recipient shall return to NASA a duly executed and approved license to the Government (which will be prepared by the Government) fully confirming of all the rights, domestic and foreign, to which the Government is entitled.

(d) *Patent filing and issuance information.* The waiver recipient shall furnish to either the Chairperson or the patent representative, the filing date, serial number and title, and upon request, a copy of any domestic or foreign patent application including an English language version if filed in a language other than English, and a copy of the patent or patent number and issue date, for any waived invention.

(e) *Transfer of rights.* The waiver recipient shall notify the Chairperson prior to any transfer of principal rights in any waived invention to any party. Such transfer shall be subject to all rights reserved by the Government, and all obligations of the waiver recipient, as set forth in this subpart.

(f) *Utilization reports.* (1) The waiver recipient shall provide to the Chairperson upon request, and no more frequently than annually, reports on the utilization of a waived invention or on efforts at obtaining such utilization being made by the waiver recipient or its licensees or assigns. Such reports shall include information regarding the status of the development, date of first commercial sale or use, and such other data and information as the Chairperson may reasonably specify. No utilization reports need be submitted after the term of the patent.

(2) Such reports on the utilization of a waived invention, as well as information on the utilization or efforts at obtaining utilization obtained as part of a march-in proceeding under § 1245.117, shall be treated by NASA as commercial and financial information obtained from a person and privileged and confidential and not subject to disclosure under 5 U.S.C. 552.

(g) *Communications.* Unless otherwise specifically set forth in this subpart, all communications relating to waived inventions, and all information and documents required to be submitted to NASA in this subpart, shall be furnished to the patent representative designated in the contract under which the waived invention was made.

(Recordkeeping and reporting requirements contained in paragraph (f) were approved by the Office of Management and Budget under control number 2700–0050)

§ 1245.117 March-in and waiver revocation procedures.

(a) The exercise of march-in procedures shall be governed by 35 U.S.C. 203 and by the applicable provisions of 37 CFR 401.6, entitled "Exercise of march-in rights for inventions made by nonprofit organizations and small business firms."

(b) Whenever NASA receives information that it believes might warrant the exercise of march-in rights, before initiating any march-in proceeding, it shall notify the waiver recipient in writing of the information and request informal written or oral comments from the waiver recipient as well as information relevant to the matter. In the absence of any comments from the waiver recipient within 30 days, NASA may, at its discretion, proceed with the procedures set forth in 37 CFR 401.6. If a comment is received within 30 days, or later if NASA has not initiated the procedures, then NASA shall, within 60 days after it receives the comment, either initiate the procedures or notify the waiver recipient, in writing, that it will not pursue march-in rights on the basis of the available information.

(c) If march-in procedures are to be initiated, the Administrator of NASA, or designee, shall undertake or refer the matter for fact finding to the NASA Board of Contract Appeals (BCA) and its Chairperson.

(d) Fact-finding shall be conducted by the NASA BCA and its Chairperson in accordance with its procedures that are consistent with the procedures set forth in 37 CFR 401.6. Any portion of the march-in proceeding, including a fact-finding hearing that involves testimony or evidence relating to the utilization or efforts at obtaining utilization that are being made by the waiver recipient, its assignee, or licensees shall be closed to the public, including potential licensees. In accordance with 35 U.S.C. 202(c)(5), NASA shall not disclose any such information obtained during a march-in proceeding to persons outside the Government except when such release is authorized by the waiver recipient (assignee or licensee).

(e) The preparation of written findings of fact and recommended determination by the Chairperson of the NASA BCA and the determination by the Administrator, or designee, of NASA shall be in accordance with 37 CFR 401.6.

(f) NASA may, at any time, terminate a march-in proceeding if it is satisfied that it does not wish to exercise march-in rights.

§ 1245.118 Record of decisions.

The findings of fact and recommendations made to the Administrator by the Board with respect to each petition for waiver shall be recorded by the Board and be available to the public.

November 6, 1987.

Dale D. Myers,

Deputy Administrator.

[FR Doc. 87–26313 Filed 11–13–87; 8:45 am]

BILLING CODE 7510-01-M

UNITED STATES INFORMATION AGENCY

22 CFR Part 502

[Rulemaking No. 4]

Propaganda as Educational and Cultural Material; World-Wide Free Flow (Export-Import) of Audio-Visual Materials

AGENCY: United States Information Agency.

ACTION: Notice of interim rules.

SUMMARY: In compliance with an order of the United States District Court of the Southern District of California, the United States Information Agency (the "Agency" or "USIA") is publishing interim rules to amend regulations found at 22 CFR Part 502 which implement the *Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific, and Cultural Character* ("Beirut Agreement of 1948"). The USIA seeks comments on the interim regulations.

DATES: The interim regulations shall become effective December 16, 1987. Comments on this notice will be accepted until January 15, 1988. All written communications received on or before the closing date, as well as the Agency's experience with administering these rules, will be considered by the Agency before determining whether to make the interim rules final.

ADDRESS: Interested persons should submit relevant views or arguments to Merry Lymn, Attorney Advisor, Room 700, United States Information Agency,

301 4th Street SW., Washington, DC 20547, (202) 485–8829.

FOR FURTHER INFORMATION CONTACT: Merry Lymn, Attorney Advisor, Room 700, United States Information Agency, 301 4th Street SW., Washington, DC 20547, (202) 485–8829.

SUPPLEMENTARY INFORMATION: By advance notice of proposed rulemaking published at 52 **Federal Register** 25384, July 7, 1987 (republished in its entirety because of typesetting errors at 52 **Federal Register** 26156, July 13, 1987), the United States Information Agency instituted a rulemaking proceeding in response to an order of the United States District Court for the Central District of California in *Bullfrog Films, Inc.* v. *Wick*, 646 F. Supp. 492 (C.D. Cal. 1986), *appeal pending*, No 86–6630 (9th Cir.). The District Court held that part of the regulations implementing the Beirut agreement were unconstitutional, and enjoined USIA from enforcing the invalidate sections of the regulations. In addition, the Court ordered that USIA reconsider six films which had been denied certification under 22 CFR Part 502. Consequently, in order to aid the Agency in complying with the District Court's Order, the Agency requested public comments as to whether and how the challenged regulations could be redrafted in a way which would both satisfy the District Court's ruling and comply with the terms and requirements of the Beirut Agreement, as interpreted by the United States, UNESCO and the international community. After review of the public comments received, the Agency is adopting interim regulations.

Background

The Beirut Agreement was adopted by the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 1948 after several years of negotiations. It entered into force on August 12, 1954. While the United States was one of the chief initiators of the treaty and signed the treaty on September 13, 1949, it did not ratify the Agreement until May 26, 1960. The Beirut Agreement was formally implemented by statute (Pub. L. 89–634 80 Stat. 879) on October 8, 1966.

The goal of the Beirut Agreement, as stated in its Preamble, is to promote "the free flow of ideas by word and image" to encourage "the mutual understanding of peoples . . ." To this end, the treaty provides a mechanism for exempting qualifying audio visual materials from import duties and licensing requirements, whereby the country of production renders an advisory opinion as to whether a meterial comes within the treaty's terms, and the importing country then determines for itself whether a duty exemption is appropriate.

The Agreement (Art. I) defines audio visual materials as "educational, scientific and cultural" for purposes of favorable import treatment

> (a) when their primary purpose of effect is to instruct or inform through the development of a subject or aspect of a subject, or when their content is such as to maintain, increase or diffuse knowledge, and augment international understanding and goodwill; and
>
> (b) When the materials are representative, authentic, and accurate; and
>
> (c) When the technical quality is such that it does not interfere with the use made of the material.

An owner of the basic rights of the material seeking exemption from the otherwise required duties must apply for a certificate from the appropriate government agency in the country of production, which attests that in the agency's view the material "is of an educational, scientific or cultural character within the meaning of Article I" (Art. IV, ¶¶1–2). The certificate is then submitted to the importing country, which makes its own independent determination as to whether the material should be subject to duty (¶4). The decision of the importing country "shall be final," although it will "give due consideraion" to the exporting country's views (¶6).

The United States is one of 29 signatories an additional 28 nations participate informally, and the United States recognizes the certificates of 15 more.

Public Law No. 89–634 broadly delegates to the USIA, as implementing Agency, the duty "to take appropriate measures for the carrying out of the provisions of the Agreement including the issuance of regulations." In turn, the USIA has issued implementing regulations (22 CFR Part 502), including several "substantive criteria" to determine whether a given film is "educational, scientific and cultural" as those terms are internationally understood. These substantive criteria are found at 22 CFR 502.6.

22 CFR 502.6(a)(3), incorporates verbatim the treaty's definition of "educational, scientific, and cultural," found in Article I (quoted above). 22 CFR 502.6(b)(3) provides that

> The Agency does not certify or authenticate materials which by special pleading attempt generally to influence opinion, conviction or policy (religious, economic, or political propaganda), to espouse a cause, or conversely, when they seem to attack a particular persuasion. Visual and auditory materials intended for use only in denominational programs or other restricted organizational use in moral or religious education and which otherwise meet the criteria set forth under paragraph (a) of this section and paragraph (b)(5) of this section, may be determined eligible for certification in the judgment of the Agency.

And, 22 CFR 502.6(b)(5) provides that

> The Agency does not regard as augmenting international understanding or good will and cannot certify or authenticate any material which may lend itself to misinterpretation, or misrepresentation of the United States or other countries, their peoples or institutions, or which appear to have as their purpose or effect to attack or discredit economic, religious, or political views or practices.

The foregoing criteria, along with other criteria set forth in 22 CFR 502.6(b)(1), (2), (4) and (6) are substantially the same as those incorporated in the UNESCO guidelines for nations participating in the Beirut Agreement.

The Court's Decisions

In an October 24, 1986 decision the District Court found that the USIA regulations at 22 CFR 502.6(a)(3), 502.6(b)(3) and 502.6(b)(5) violate the First and Fifth Amendments to the Constitution and enjoined the Agency from enforcing the regulations as a basis for refusing to issue certificates under the Agreement. *Bullfrog Films* v. *Wick*, 646 F. Supp. 492 (CD Cal. (1986)). Further, the Court ordered the Agency to reconsider the applications for certificates for six films which were at issue in that proceeding. The government appealed that decision to the United States Court of Appeals for the Ninth Circuit which has expedited the appellate proceedings (oral argument was held on July 10, 1987). In addition, because the invalidation of these regulations left the Agency without sufficient standards to carry out its obligations under the Treaty, the Agency sought a stay of the judgment so that it could continue to process applications for certificates pending appeal. The motion for a stay was denied by the District Court and the Court of Appeals.

In the absence of a stay and still without sufficient criteria, the Agency has been unable to process applications for Beirut Agreement certificates. As stated, on July 7, 1987, the Agency instituted this proceeding by publishing an advance notice of proposed rulemaking requesting public comment as to how it might generate new criteria, in lieu of the invalidated regulations, which would reconcile the Agency's obligations under the Beirut Agreement with the requirements of the First and

Fifth amendments as perceived by the District Court. The comment period closed on Sept. 8, 1987. In the meantime, at the prompting of the plaintiffs in *Bullfrog Films*, the District Court set a timetable for promulgation of new regulations, or in the alternative, for reconsideration of the plaintiffs' six films for certification directly under the Agreement. Under that timetable, if the Agency elects to proceed by issuing new regulations, the regulations must be published in the **Federal Register** by November 16, 1987.

The Agency has concluded that it is not feasible to reconsider the six films at issue in *Bullfrog Films* without the benefit of substantive standards for implementing the requirements of the Beirut Agreement. Accordingly, guided by the District Court's rulings, by the language of the Treaty and the international understanding of its application (as embodied in the UNESCO guidelines), and after consideration of the public comments submitted in this proceeding, the Agency has determined to adopt the interim regulations set forth below to substitute for the regulations invalidated by District Court. These Interim regulations are adopted at this time solely because of the constraints placed upon the Agency by the District Court's judgment and timetable. The Agency is still vigorously pursuing its appeal of the judgment and if the judgment is ultimately reversed, the Agency intends to reinstate the former regulations. However, unless and until the judgment and timetable are stayed or reversed, the Agency will proceed to process the six films at issue in *Bullfrog Films* and all other applications for certification under these interim regulations. The interim regulations are set forth following a discussion of the public comments received.

The Comments

In response to the advance notice of proposed rulemaking, the Agency received comments from 18 parties by the close of the comment period, September 8, 1987. The parties are listed in appendix A. Two parties responded after the deadline and their comments were not considered. All of the comments submitted in a timely manner were considered; however, not all comments are specifically discussed.

For the most part, the comments did not address the question of how to draft regulations which would reconcile the Court's Orders and the Treaty. Several parties merely stated that they liked the regulations as they are and asked that they not be changed. Some parties suggested that the USIA "delegate" its statutory function to another body. Others opined that the Agency should or should not certify material such as propaganda, but made no suggestion as to how to do so in a manner which would reconcile the Court's Orders and the Agreement. All the parties wanted the certification program to resume, and of course, desired that their products be included within the definition of "educational, cultural, and scientific."

Both Educational Teaching Aids and Biomedical Models Company asked that maps, globes, scientific apparatus, anatomical models and mathematical models not be subjected to the scrutiny imposed on other audio visual materials, because, they assert, these items are *per se* educational. Article I of the Beirut Agreement specifically defines materials of an "educational, scientific or cultural character." Only those audio visual materials, whether films or models, which met the definition contained in Article I qualify for certification. The Treaty does not recognize any catagories of materials as being *per se* entitled to certification.

The Center for Constitutional Rights, which represents the plaintiffs in the *Bullfrog Films* litigation, submitted the longest comments. Its comments for the most part repeated its legal arguments made in Court; only Section III of its four part submission contained suggestions for reconciling the treaty requirements with the constitutional mandate identified by the District Court. The Center suggested that USIA certify *all* films except those whose primary purpose or effect is to amuse or entertain (22 CFR 502.6(b)(1)); to inform concerning timely current events (section 502.6(b)(2)); to advertise or raise funds (section 502.6(b)(4)); or which have not yet been produced (section 502.6(b)(6)). While §§ 502.6(b) (1), (2), (4) and (6) provide examples of materials which are *not* "educational," they are not all-inclusive. Accordingly, they do not define the term "educational" for purposes of administering the Beirut Agreement, nor do they contain a complete listing of materials which are *not* "educational." Further, the Center suggested that by restricting the denial of certificates to films coming within the terms of §§ 502.6(b) (1), (2), (4) and (6), the Agency can avoid having to address the question of the constitutionality of Article I of the treaty. The Agency has no way of knowing whether other litigants will challenge those portions of 22 C.F.R. 502 not attacked in the *Bullfrog* litigation, or the constitutionality of Article I itself. In any event, the Center's comment does not address whether or how the Agency can fulfill its *affirmative* obligation to ensure that certified materials meet the requirements of Article I.

Second, the Center made several broad suggestions which it states are designed to prevent Agency officials from resting judgments on the political or social viewpoint of a film. The Center suggested that materials not be denied certificates because they attempt to persuade to a point of view or espouse a cause. The interim regulations do not disqualify materials from certification merely because their purpose is to persuade to a point-of-view or to espouse a cause. The Center also suggested that audio visual materials should not be denied certificates because they present a viewpoint or viewpoints critical of the United States or its policies. This has never been a criterion under 22 CFR Part 502, and is not a criterion of the interim regulations. Another comment is that materials which present an "unbalanced perspective" should not be denied certification. The Center did not attempt to define the term "unbalanced perspective," which the Agency finds to be vague and susceptible to subjective application and interpretation. The Agency believes that a more appropriate interpretation of the requirements set forth in the Treaty that materials must be "representative, authentic and accurate" is that the materials must present facts which are not distorted, *i.e.*, which represent the current state of factual knowledge of a subject or aspect of a subject, and that the facts not be presented in such a way as to constitute "hate" material.

The Center further suggested that a certificate should not be denied because the materials portray an aspect of a subject without presenting other aspects of the subject. Article I of the Beirut Agreement specifically authorizes the certification of otherwise qualifying materials which "instruct or inform through development of a subject *or* aspect of a subject * * *" (emphasis added). The interim regulations reflect this criterion.

In addition, the Center suggested that all materials whose "primary purpose is to instruct or inform through the development of a subject or aspect of a subject, or when their content is such as to maintain, increase or diffuse knowledge," should be presumed also to "augment international understanding and goodwill." The Agency disagrees. Article I of the Beirut Agreement sets forth these criteria as separate and distinct requirements. There is no support in the treaty language or in its interpretation and application in the

international community to support the view that the requirement that materials which "instruct or inform" are entitled to a presumption that they also "augment international understanding and goodwill." The Agency has endeavored to adopt interim regulations which appropriately define and implement all requirements set forth in Article I of the Beirut Agreement.

Courter Films & Associates (CFA) suggested:

> In order to redraft the challenged regulations more specific wording might be helpful to eliminate those films that do not meet the criteria. This might include films that primarily promote or sell a product or company (but must be careful not to eliminate many fine sponsored films that do not promote anything more than the benevolence of the company that paid for the film, as long as the product is not used and/or depicted); films that espouse one political or religious point-of-view; films that entertain with no teaching aspects. Further, category guidelines could be listed in an addendum using those available in the NICEM catalogs and/or the Educational Film Library Association categories.

In response to CFA's suggestion, the Agency examined the referenced catalogs. NICEM's catalog [1] (National Information Center for Educational Media) contains no definition of educational. NICEM collects, catalogs, and disseminates information on educational materials. The index consists of 50,000 entries based upon information supplied by the Library of Congress or by producers and distributors. It catalogs the materials by subject, audience and/or grade level, and by title. No criteria for inclusion are discussed. Additionally, the Agency contacted the Educational Film Library Association. That organization said it considered all films, regardless of content, to be educational.

As neither of the two suggested inquiries proved fruitful, the Agency turned to the "Educational Film/Video locator of the Consortium of University Film Centers." [2] This index contains no definition of educational. Rather, it is a compilation of films and video titles held by member libraries of the Consortium. The 48,300 listed films and video titles were viewed and selected by film library staffs as being in demand by educators. The criteria for inclusion appear to be the interest in the material by the member university libraries. Thus, this inquiry was not fruitful.

In sum, while the commentors provided various suggestions as to how the Agreement can be interpreted in order to accommodate the constitutional concerns expressed by the District Court, none of the commentors offered an alternative, positive definition of "educational, scientific and cultural" which accords with both the Agreement and the Constitution, as interpreted by the District Court.

Discussion

For purposes of these interim regulations, the Agency's objective is to attempt to resume administering the Beirut Agreement without either violating this nation's obligations to other governments under its terms, or violating applicable constitutional requirements. Accordingly, the Agency has determined to be guided in its certification decisions by the primarily didactic thrust of the Treaty definition of "educational, scientific and cultural" audio visual materials, *i.e.*, materials whose "primary purpose is to instruct or inform," or which "maintain, increase or diffuse knowledge." The Agency interprets these terms to include factual and demonstrative presentations which represent the current state of knowledge on the subject (including the current state of knowledge on historical events) and which are verifiable by generally accepted methods. This last proviso would not require the Agency to verify the facts, but only to satisfy itself, through submissions by the applicant and/or consultation with experts, if necessary, that such verification would be possible. The Agency is also cognizant of its obligation under Article I to consider whether a material's content is such as to "augment international understanding and goodwill." In this sense, the Agency does not believe that the Treaty is intended to apply to materials which, even if considered "factual" or "demonstrative," present or demonstrate the facts so selectively as to constitute an incitement of hatred or violence against a government, group or person. *See National Alliance* v. *United States*, 710 F.2d 868 (1983) (publication of American Nazi umbrella organization promoting extreme white supremacist views meets no definition of "educational" material). And, even where facts concerning any subject or aspect of a subject are simply presented in such a way as to reflect a particular viewpoint, the Agency believes that the Treaty's requirements that materials "instruct or inform" or "augment international understanding and goodwill" requires, at a minimum, that the materials acknowledge the existence of other viewpoints or opinions, if any. Finally, the interim regulations reiterate the Article I requirement (which has not been challenged in the *Bullfrog Films* litigation) that the technical quality of the material be such that it does not interfere with the use made of it.

In addition to the foregoing consideration in determining whether to grant a certificate, the Agency believes that it is obligated by international understanding and practice under the Beirut Agreement to advise foreign governments when audio visual material is presented in such a way as to constitute political, economic or religious propaganda. The Agency's belief is based upon Article I, the UNESCO guidelines for the Agreement and upon the longstanding interpretation of the Treaty accepted in the international community. Moreover, it is clear that there is no constitutional barrier to the expression of such an opinion on the part of our Government. *See Block* v. *Meese*, 793 F.2d 1303, 1311 (D.C. Cir. 1986) (government expression of opinion that a film is political propaganda does not infringe a film distributor's first amendment rights; the government is entitled to "add its voice to the many it must tolerate"). *See also Meese* v. *Keene*, 107 S.Ct. 1862, 1869 (1978) (government can express its opinion that a film is propaganda, *i.e.*, that it is substantially "adapted to prevail upon, indoctrinate, convert, induce or in any other way influence" the viewer with respect to particular political, economic or religous views or practices). However, to the extent that the former regulations were designed to enable the Agency to provide this kind of advice to foreign governments in the form of a denial of a certificate under the Beirut Agreement, this is no longer possible because those regulations have been invalidated.

Accordingly, the interim regulations provide for the Government to continue to meet its obligation to convey this information to foreign governments without using it as a basis for denying a certificate. Instead, when the Agency determines that, in its opinion, material which otherwise meets the interim criteria for certification constitutes propaganda, the Agency may so indicate in the "Summary of Contents" section of the certificate. When an applicant identifies a specific audience for its material, the Agency may also use the "Summary of Content" section to express an opinion as to whether the identified audience possesses the necessary background or training to understand the subject matter. This latter comment is designed to assist in the wider acceptance of U.S.-produced educational audio visual materials, and

[1] *Index to 16 mm Educational films*, Access Innovations, Inc., Albuquerque, New Mexico, (1984).

[2] R.R. Bowker Company, New York, 1986.

in encouraging producers accurately to identify likely audiences or users.

Findings and Conclusions

The Agency concludes that it will adopt the regulations set forth herein on an interim basis effective December 16, 1987, and will begin to make certification decisions at that time. The public is invited to submit comments in a timely manner as described earlier in this notice.

This decision does not significantly affect the quality of the human environment and is not a major or regulatory action under the Energy and Conservation Act of 1975.

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

Under 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.

Paperwork Reduction Act.

Information collection requirements contained in this regulation § 502.6(a)(3), 502.6(b)(3), and 502.6(b)(5) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (42 U.S.C. 3501-3520) and have been assigned OMB Control Numbers.

List of Subjects in 22 CFR Part 502

Education, Imports, Trade agreements.

PART 502—[AMENDED]

The authority for Part 502 continues to read:

Authority: 5 U.S.C. 301, 19 U.S.C. 2051, 2052, 22 U.S.C. 1431 et seq., E.O. 11311, 31 FR 13413, 3 CFR 1966-1970 comp. page 593.

2. In § 502.6, paragraphs (b)(3) and (b)(5) are removed and paragraph (a)(3) is revised to read as follows:

§ 502.6 Substantive criteria.

(a) * * *

(3) Audio visual materials which are deemed "educational, scientific or cultural" for the purposes of Article I of the Beirut Agreement of 1948 are those "whose primary purpose or effect is to instruct or inform through the development of a subject or aspect of a subject, or when their content is such as to maintain, increase or diffuse knowledge, and augment international understanding and goodwill," as defined below as comprising the following elements:

(i) The content of the audio visual material is presented in a primarily factual or demonstrative manner.

(ii) To the extent that the material reflects a viewpoint or viewpoints which purport to be supported by factual bases, the facts are not distorted. The facts will be deemed distorted if they do not represent the current state of factual knowledge of a subject or aspect of a subject, vrifiable by generally accepted methods, or if the facts are presented in such a way as to constitute hate material (such as the racial supremacist material involved in *National Alliance* v. *United States*, 710 F.2d 868 (1983)).

(iii) To the extent that the material presents, promotes, or advocates a conclusion or viewpoint for which different viewpoint(s), theory(ies) or interpretation(s) may exist, the material acknowledges, presents or refers to the existence of a difference of opinion or other point of view.

(iv) The technical quality is such that it does not interfere with the use made of the material.

In the "Summary of Content" section of the certificate, the Agency, in its discretion, may identify material that in its opinion constitutes propaganda, in that it is substantially adapted to prevail upon, indoctrinate, convert, induce or in any other way influence a viewer or user with reference to any specific political, religious or economic views, practices, movements, causes or systems or belief. Where an applicant identifies an intended audience the Agency may also express an opinion in the "Summary of Content" section of the certificate as to whether that audience possesses the background or training to understand the subject matter.

November 6, 1987.

Charles Z. Wick,

Director, United States Information Agency.

[FR Doc. 87-26384 Filed 11-13-87; 8:45 am]

BILLING CODE 8230-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 925

Permanent Regulatory Program of Missouri: Extension of Deadline for Submission of Blaster Certification Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Final rules.

SUMMARY: OSMRE is announcing the approval of a request, from the State of Missouri, to extend the deadline for submission of a required amendment to its permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), hereinafter referred to as the Missouri program. The required amendment concerns requirements for certification of blasters.

EFFECTIVE DATE: November 16, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Kovacic, Director, Office of Surface Mining Reclamation and Enforcement, Kansas City Field Office, 1103 Grand Avenue, Room 502, Kansas City, Missouri 64106, Telephone: (816) 374-5527.

SUPPLEMENTARY INFORMATION:

I. Background on the Missouri Program

The Secretary of the Interior approved the Missouri program on November 21, 1980 (45 FR 77017). Information pertinent to the general background and revisions to the permanent program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Missouri program can be found in the November 21, 1980 **Federal Register** (45 FR 77017). Subsequent actions concerning proposed amendments and the conditions of approval are codified at 30 CFR 925.10, 925.15, 925.16, and 925.20.

II. Request for Deadline Extension

On March 4, 1983, OSMRE promulgated 30 CFR Part 850, that establishes Federal standards for the training and certification of blasters (48 FR 9486). Section 850.12 of these regulations stipulates that the regulatory authority shall develop and adopt a program to examine and certify all persons who are directly responsible for the use of explosives in a surface coal mining operation within 12 months after approval of the State program or within

12 months after publication of 30 CFR Part 850, whichever is later. In the case of Missouri's program, as codified at 30 CFR 925.16(i), the applicable date is 12 months after publication of the Federal rules, or March 4, 1984.

On August 6, 1984, (Administrative Record No. MO–272), Missouri advised OSMRE that it would be unable to meet the March 4, 1984 deadline because the State was depending on technical assistance from knowledgeable parties outside the State's staff to assist in preparation of the certification program. It was also necessary to accommodate the State's regulatory process in accordance with rule making procedures established by the Missouri Secretary of State. The State requested a one-year extension to develop and adopt a blaster certification program. On October 26, 1984, OSMRE granted Missouri an extension to August 6, 1985 (49 FR 43055).

On August 4, 1985 (Administrative Record No. MO–282), the Director of the Missouri Land Reclamation Commission advised OSMRE that the State would require another extension of time to complete the following: (1) Contract negotiations with consultants to establish certification procedures and a test; (2) incorporation of the certification procedures and test format in the Missouri Code of Regulations; and (3) gaining approval of the State program amendment. On November 15, 1985, OSMRE granted an extension to August 6, 1986 (50 FR 47219).

By letter dated March 13, 1986 (Administrative Record No. MO–289), the Missouri Land Reclamation Commission formally submitted a proposed amendment addressing blaster certification. But by letter dated September 18, 1986 (Administrative Record No. MO–299), Missouri requested that this amendment be withdrawn from consideration. Although State regulations had been adopted on this issue, the actual programs for training, examination and certification had not been initiated. In addition, the State had not implemented any new regulations regarding performance standards on explosives that ultimately go hand in hand with the blaster certification regulations. By notice in the January 7, 1987 **Federal Register** OSMRE granted this request (52 FR 535). On April 10, 1987 (Administrative Record No. MO–309), Missouri requested that the submission deadline be extended to June 30, 1988, because July 1, 1987 would be the first date allowable by the Missouri Office of Administration to enter into a contract agreement for the development of a program for the current fiscal year. A revised schedule was submitted outlining the remaining steps to be taken to complete the program and regulation revision. OSMRE announced receipt of this request in the June 12, 1987 **Federal Register** (52 FR 22499).

III. Public Comment

The Director solicited public comment and provided opportunity for a public hearing on the proposed extension in the June 12, 1987 **Federal Register** (52 FR 22499). No comments were received during the public comment period, that opened June 12, 1987 and closed July 13, 1987. Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(10)(i), comments were also solicited from various Federal agencies. The Federal agencies had no comments.

IV. Director's Determination

The Director has determined that an extension of the deadline for Missouri to submit regulations and a program for blaster training, examination and certification is warranted because the State has had several large unanticipated workloads put on its Land Reclamation Staff. These workloads are due to problems with its alternative bonding system and the need to pursue additional program funding sources. These workloads have delayed development of the blaster certification program into the current fiscal year. Therefore, he is amending 30 CFR 925.16(i) to extend the deadline for submission until June 30, 1988.

V. Additional Determinations

1. Compliance with the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 9 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this section does not require preparation of a regulatory impact analysis statement or regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 925

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

James W. Workman,

Deputy Director, Operations and Technical Services, Office of Surface Mining Reclamation and Enforcement.

Dated: November 6, 1987.

PART 925—MISSOURI

Part 925 of Title 30, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 925 is added to read as follows, and the authority citations following the sections in Part 925 are removed:

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

§ 925.16 [Amended]

2. In paragraph (i)(1) introductory text of § 925.16, remove the date "August 6, 1986", and add in its place "June 30, 1988".

[FR Doc. 87–26374 Filed 11–13–87; 8:45 am]
BILLING CODE 4310–05–M

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30 CFR Part 925

Permanent Regulatory Program of Missouri; Extension of Deadlines for Submission of Required Amendments

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Final rule.

SUMMARY: OSMRE is announcing the approval of a request, from the State of Missouri, to extend the deadlines for submission of two required amendments to its regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The required amendments concern the civil penalty assessment process and initial program revegetation success standards for trees and shrubs.

EFFECTIVE DATE: November 16, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Kovacic, Director, Office of Surface Mining Reclamation and Enforcement, Kansas City Field Office, 1103 Grand Avenue, Room 502, Kansas

City, Missouri 64106, Telephone: (816) 374–5527.

SUPPLEMENTARY INFORMATION:

I. Background on the Missouri Program

The Secretary of the Interior approved the Missouri program on November 21, 1980 (45 FR 77017). Information pertinent to the geneal background and revisions to the permanent program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Missouri program can be found in the November 21, 1980 **Federal Register** (45 FR 77017). Subsequent actions concerning proposed amendments and the conditions of approval are codified at 30 CFR 925.10, 925.15, 925.16 and 925.20.

II. Request for Deadline Extension

On January 7, 1987, OSMRE approved certain amendments to the Missouri program. As set forth at 30 CFR 925.16 (j) and (k), Missouri was also required to submit further amendments to ensure that its program would be no less effective than the Federal regulations with respect to initial program revegetation success standards and the State's civil penalty assessment procedures.

On April 9, 1987, Missouri requested that the deadlines for submission of the subject required amendments be extended to October 31, 1988 and April 30, 1988 (Administrative Record No. MO–308). The State noted that it was currently developing extensive program-wide regulatory revisions in response to Federal regulation changes, and that the requested deadline revisions would allow it to submit the required amendments in a manner consistent with the revised schedule for this regulatory reform effort. OSMRE announced receipt of the request in the June 12, 1987 **Federal Register** (52 FR 22500).

III. Public Comment

The Director solicited public comment on the proposed extensions in the June 12, 1987 **Federal Register** (52 FR 22500). No comments were received during this comment period, which opened June 12, 1987 and closed July 13, 1987. Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(10)(i), comments were also solicited from various Federal agencies. No comments were received.

IV. Director's Determination

Based on the reasons cited in the Missouri request, as discussed in the section of this notice entitled "Request for Deadline Extensions", the Director has determined that an extension of the deadlines for submission of the amendments required by 30 CFR 925.16 (j) and (k) is warranted. Therefore, he is amending 30 CFR Part 925 to extend the deadline for submission of required amendment (j) to October 31, 1988, and the required amendment (k) to April 30, 1988.

V. Additional Determinations

1. Compliance with the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement needs be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from section 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a regulatory impact analysis statement and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements: rather it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State

3. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the OMB under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 925

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

James W. Workman,

Deputy Director, Operation and Technical Services, Office of Surface Mining Reclamation and Enforcement.

Date: November 6, 1987.

PART 925—MISSOURI

Part 925 of Title 30, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 925 continues to read as follows:

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

§ 925.16 [Amended]

2. In § 925.16, paragraph (j) is amended by removing "February 28, 1988", and adding in its place "October 31, 1988".

3. In § 925.16, paragraph (k) is amended by removing "August 30, 1987", and adding in its place "April 30, 1988".

[FR Doc. 87–26373 Filed 11–13–87; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 934

Approval of Amendments to the North Dakota Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Final rule.

SUMMARY: The Director, OSMRE is announcing the approval of proposed amendments submitted by the State of North Dakota to modify its permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The proposed amendments, submitted April 3, 1987, include modifications to the State's statute concerning performance bond requirements.

After providing opportunity for public comment and conducting a thorough review of the proposed amendments, the Director has determined that the proposed modifications meet the requirements of SMCRA and the Federal regulations. He is, therefore, approving the proposed amendments as submitted on April 3, 1987. The Federal rules at 30 CFR Part 934 codifying decisions concerning the North Dakota program are being amended to implement this action.

EFFECTIVE DATE: July 1, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry R. Ennis, Director, Office of Surface Mining Reclamation and Enforcement, Casper Field Office, Federal Building, 100 East B Street, Room 2128, Casper, Wyoming 82601–1918; Telephone: (307) 261–5776.

SUPPLEMENTARY INFORMATION:

I. Background

Information concerning the general background on the permanent program, general background on the State program approval process, general background on the North Dakota program submission, Secretary's findings, disposition of public comments, and Secretary's decision of conditional

approval can be found in the December 15, 1980 **Federal Register** (45 FR 82214). Subsequent actions concerning approval of program amendments are identified at 30 CFR 934.15.

II. Submission of Amendments

On April 3, 1987, the State of North Dakota submitted a proposed amendment to its approved permanent regulatory program. The amendment consists of revisions to the approved North Dakota statute made by the 1987 Legislative Assembly. The amended sections of the statute, North Dakota Century Code (NDCC), and brief description of the amended subject areas are as follows: section 38–14.1–16(2)—revised statute concerning performance bond amount; section 38–14.1–16(7)—revised statute concerning sufficiency of surety; and section 38–14.1–17(7)—revised statute concerning criteria for performance bond release.

The May 6, 1987 **Federal Register** announced receipt of the proposed amendment and invited public comment (52 FR 16863). The public comment period ended June 5, 1987. A public hearing scheduled for June 1, 1987 was not held since no person requested the hearing.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment submitted to OSMRE by the State of North Dakota on April 3, 1987. The Director finds that the amended provisions meet the requirements of SMCRA and 30 CFR Chapter VII. The Director may require further changes in the future as a result of the ongoing review of the North Dakota program in light of Federal regulatory revisions and court decisions.

Section 38–14.1–16 Performance bond—Amount—Sufficiency of surety—Amount of forfeiture.

1. North Dakota has amended subsection 2 of section 38–14.1–16 of the North Dakota Century Code (NDCC) concerning performance bond amount. Minor changes were made for clarity and excess language has been removed. The amended statute also removes specific minimum bond amounts per acre, and relies on the more general criteria of the bond amount being sufficient to complete the reclamation plan in event of forfeiture. The new language more closely follows the Federal standards at section 509(a) of SMCRA, and continues to require a $10,000 minimum bond for a permit area. The Director, therefore, finds the revised State statute at NDCC 38–14.1–16(2) no less stringent than the Federal statute at section 509(a) of SMCRA.

2. North Dakota has amended subsection 7 of NDCC section 38–14.1–16 concerning sufficiency of surety. The amended statute has generally been revised for clarity and excess language removed. North Dakota has added language consistent with 30 CFR 800.16(e)(2) allowing 90 days for a permittee to provide substitute bond coverage if a corporate surety's license is suspended or revoked. Language is also revised to provide that the permit may be suspended for failure to make a bond substitution within 30 days, and that it shall be suspended if no substitute bond is provided within 90 days. Although the statute as revised does not contain language which would require the operator to cease coal extraction and comply with 30 CFR 816.132 or 817.132 and immediately begin reclamation on the area after 90 days as required in 30 CFR 800.16(e)(2), the amended statutory language does not conflict with Federal requirements. The Director is approving the statutory change in NDCC 38–14.1–16(7), but recognizes that further conforming changes in the North Dakota program will be necessary to address the requirements of 30 CFR 800.16(e)(2). At present, OSMRE has another North Dakota rulemaking action in progress concerning amendments to the State's bonding regulations. Any deficiency found in the North Dakota bonding program will be addressed in that rulemaking.

Release of performance bond—Schedule—Notification—Public Hearing

3. North Dakota has amended subsection 7 of NDCC section 38–14.1–17 concerning criteria for performance bond release. The amended statute has generally been revised for clarity and excess language removed. North Dakota has retained their four-stage bond release as opposed to the three-state release in section 519(c) of SMCRA. Specifically, subsection 7(c) has been changed from release of an additional twenty percent of the bond after vegetation is established to release of an additional amount of the bond. This change more closely resembles the language at 519(c)(2) of SMCRA. Specific references to reclamation being in accordance with the approved plan for the first three stages of bond release have been deleted; however, this provision is adequately addressed in NDAC 69–05.2–12–11. The Director, therefore, finds the revised State statute at NDCC 38–14.1–17(7) no less stringent than the Federal statute at section 519(c) of SMCRA.

IV. Public Comments

The Director solicited public comment on the proposed amendment in the May 6, 1987 **Federal Register** (52 FR 16863). No comments were received.

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(10)(i), comments were also solicited from various Federal agencies. No substantive comments were received from the respondents.

V. Director's Decision

The Director, based on the above findings, is approving the proposed amendments to the North Dakota program, as submitted on April 3, 1987. The Federal rules at 30 CFR Part 934 are being amended to implement this decision.

The final rule is being made effective July 1, 1987 to coincide with the effective date of the State amendment approval and to encourage States to conform their programs with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Requirements

1. *Compliance with the National Environmental Policy Act.* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act.* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act.* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 934

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: November 2, 1987.

James W. Workman,

Deputy Director, Operations and Technical Services, Office of Surface Mining Reclamation and Enforcement.

PART 934—NORTH DAKOTA

30 CFR Part 934 is amended as follows:

1. The authority citation for Part 934 is revised to read as follows and the authority citations following the sections in Part 934 are removed:

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

2. 30 CFR Part 934.15 is amended by adding a new paragraph (i) as follows:

§ 934.15 Approval of amendments to State regulatory program.

* * * * *

(i) The following amendment to the North Dakota permanent regulatory program, submitted to OSMRE April 3, 1987, is approved effective July 1, 1987: modifications to NDCC 38–14.1–16(2) concerning performance bond amount; modifications to NDCC 38–14.1–16(7) concerning sufficiency of surety; and modifications to 38–14.1–17(7) concerning criteria for performance bond release.

[FR Doc. 87–26245 Filed 11–13–87; 8:45 am]

BILLING CODE 4310–05–M

VETERANS ADMINISTRATION

38 CFR Part 36

Decrease in Maximum Permissible Interest Rates on Guaranteed Manufactured Home Loans, Home and Condominium Loans, and Home Improvement Loans

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is decreasing the maximum interest rates on guaranteed manufactured home unit loans, lot loans, and combination manufactured home unit and lot loans. In addition, the maximum interest rates applicable to fixed payment and graduated payment home and condominium loans, and to home improvement and energy conservation loans are also decreased. These decreases in interest rates are possible because of recent improvements in the availability of funds in various credit markets. The decrease in the interest rates will allow eligible veterans to obtain loans at a lower monthly cost.

EFFECTIVE DATE: November 10, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202–233–3042).

SUPPLEMENTARY INFORMATION: The Administrator is required by section 1819(f), title 38, United States Code, to establish maximum interest rates for manufactured home loans guaranteed by the VA as he finds the manufactured home loan capital markets demand. Recent market indicators—including the prime rate, the general decrease in interest rates charged on conventional manufactured home loans, and the decrease of other short-term and long-term interest rates—have shown that the manufactured home capital markets have improved. It is now possible to decrease the interest rates on manufactured home unit loans, lot loans, and combination manufactured home unit and lot loans while still assuring an adequate supply of funds from lenders and investors to make these types of VA loans.

The Administrator is also required by section 1803(c), title 38, United States Code, to establish maximum interest rates for home and condominium loans including graduated payment mortgage loans, and loans for home improvement purposes. Market indicators similarly favor reductions in the maximum interest rates for these types of loans. These lower interest rates should assist more veterans in the purchase of homes and condominiums or to obtain improvement loans because of the decrease in the monthly loan payments for principal and interest.

Regulatory Flexibility Act/Executive Order 12291

For the reasons discussed in the May 7, 1981 **Federal Register**, (46 FR 25443), it has previously been determined that final regulations of this type which change the maximum interest rates for loans guaranteed, insured, or made pursuant to chapter 37 of title 38, United States Code, are not subject to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

These regulatory amendments have also been reviewed under the provisions of Executive Order 12291. The VA finds that they are not "major rules" as defined in that Order. The existing process of informal consultation among representatives within the Executive Office of the President, OMB, the VA and the Department of Housing and Urban Development has been determined to be adequate to satisfy the intent of this Executive Order for this category of regulations. This alternative consultation process permits timely rate adjustments with minimal risk of premature disclosure. In summary, this consultation process will fulfill the intent of the Executive Order while still permitting compliance with statutory responsibilities for timely rate adjustments and a stable flow of mortgage credit at rates consistent with the market.

These final regulations come within exceptions to the general VA policy of prior publication of proposed rules as contained in 38 CFR 1.12. The publication of notice of a regulatory change in the VA maximum interest rates for VA guaranteed, insured or direct loans would deny veterans the benefit of lower interest rates pending the final rule publication date which would necessarily be more than 30 days after publication in proposed form. Accordingly, it has been determined that publication of proposed regulations prior to publication of final regulations is impracticable, unnecessary, and contrary to the public interest.

(Catalog of Federal Domestic Assistance Program numbers, 64.113, 64.114, and 64.119).

These regulations are adopted under authority granted to the Administrator by sections 210(c), 1803(c)(1), 1811(d)(1) and 1819 (f) and (g) of title 38, United States Code.

These decreases are accomplished by amending §§ 36.4212(a)(1), (2), and (3), and 36.4311 (a), (b), and (c) and 36.4503(a), title 38, Code of Federal Regulations.

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing, Loan programs—housing and community development, Manufactured homes, Veterans.

Approved: November 9, 1987.

Thomas K. Turnage,

Administrator.

38 CFR Part 36, *Loan Guaranty*, is amended as follows:

PART 36—[AMENDED]

1. In § 36. 4212, paragraph (a) is revised as follows:

§ 36.4212 Interest rates and late charges.

(a) The interest rate charged the borrower on a loan guaranteed or insured pursuant to 38 U.S.C. 1819 may not exceed the following maxima except

on loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration prior to the respective effective date;

(Authority: 38 U.S.C. 1819(f))

(1) Effective November 10, 1987, 13 percent simple interest per annum for a loan which finances the purchase of a manufactured home unit only.

(2) Effective November 10, 1987, 12½ percent simple interest per annum for a loan which finances the purchase of a lot only and the cost of necessary site preparation, if any.

(3) Effective November 10, 1987, 12½ percent simple interest per annum for a loan which will finance the simultaneous acquisition of a manufactured home and a lot and/or the site preparation necessary to make a lot acceptable as the site for the manufactured home.

* * * * *

2. In § 36.4311, paragraphs (a), (b), and (c) are revised as follows:

§ 36.4311 Interest rates.

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the VA which specify an interest rate in excess of 10½ per centum per annum, effective November 10, 1987, the interest rate on any home or condominium loan, other than a graduated payment mortgage loan, guaranteed or insured wholly or in part on or after such date may not exceed 10½ per centum per annum on the unpaid principal balance.

(Authority: 38 U.S.C. 1803(c)(1))

(b) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the VA which specify an interest rate in excess of 10¾ per centum per annum, effective November 10, 1987, the interest rate of any graduated payment mortgage loan guaranteed or insured wholly or in part on or after such date may not exceed 10¾ per centum per annum.

(Authority: 38 U.S.C. 1803(c)(1))

(c) Effective November 10, 1987, the interest rate on any loan solely for energy conservation improvements or other alterations, improvements or repairs, which is guaranteed or insured wholly or in part on or after such date may not exceed 12 per centum per annum on the unpaid principal balance.

(Authority: 38 U.S.C. 1803(c)(1))

* * * * *

3. In § 36.4503, paragraph (a) is revised as follows:

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after October 1, 1980, shall not exceed an amount which bears the same ratio to $33,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $27,500. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Except as to home improvement loans, loans made by the VA shall bear interest at the rate of 10½ percent per annum. Loans solely for the purpose of energy conservation improvements or other alterations, improvements, or repairs shall bear interest at the rate of 12 percent per annum.

(Authority: 38 U.S.C. 1811(d) (1) and (2) (A))

* * * * *

[FR Doc. 87-26348 Filed 11-13-87; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPTS-42002G; FRL-3291-2]

Fluoroalkenes; Technical Amendment to Test Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: This document amends a test rule in 40 CFR 799.1700 on fluoroalkenes. This action is necessary to amend by removing referrals to the *in vitro* cytogenetics tests and citations in certain mutagenicity and oncogenicity test requirements affected by deletion of the referrals.

EFFECTIVE DATE: November 16, 1987.

FOR FURTHER INFORMATION CONTACT: By mail: John Schaeffer, Existing Chemical Assessment Division (TS-778), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: NE-100, 401 M St., SW., (202-475-8127).

SUPPLEMENTARY INFORMATION: In accordance with section 4(a) of the Toxic Substances Control Act (TSCA), a regulation was established in 40 CFR 799.1700 to require certain health effects testing for vinyl fluoride (VF; CAS No. 75-02-5), vinylidene fluoride (VDF; CAS No. 75-38-7), hexafluoropropene (HFP; CAS No. 116-15-4), and tetrafluoroethene (TFE; CAS No. 116-14-3) (collectively as fluoroalkenes).

In the regulations, referrals to *in vitro* cytogenetics and other mutagenicity and oncogenicity test requirements were inadvertently included. Accordingly, 40 CFR 799.1700 is amended to reflect the correct citations and referrals to specific test requirements.

List of Subjects in 40 CFR Part 799

Environmental protection, Hazardous substances, Chemicals, Recordkeeping and reporting requirements.

Dated: November 4, 1987.

J.A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, Part 799 is amended as follows:

PART 799—[AMENDED]

1. The authority citation for Part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. Section 799.1700 is amended by revising the second sentence of paragraph (c)(2)(i)(B)(*1*); revising paragraph (c)(2)(i)(C)(*1*); and revising the third sentence in paragraph (c)(4)(i) to read as follows:

§ 799.1700 Fluoroalkenes.

* * * * *

(c) * * *

(2) * * *

(i) * * *

(B) * * *

(*1*) * * * This test shall also be performed with TFE or VDF if the mouse micronucleus cytogenetics test conducted pursuant to paragraph (c)(2)(i)(A) of this section produces a positive result.

* * * * *

(C) * * *

(*1*) * * * A heritable translocation assay shall be conducted with VF, VDF, TFE, or HFP in accordance with § 798.5460 of this chapter except for the provisions of paragraph (d)(3)(i), (5), and (e)(1), if the dominant lethal assay conducted for that substance pursuant to paragraph (c)(2)(i)(B) of this section produces a positive result and if, after a public program review, EPA issues a **Federal Register** notice or sends a certified letter to the test sponsor specifying that the testing shall be initiated.

* * * * *

(4) * * *

(i) * * * Oncogenicity tests shall also be conducted by inhalation in both rats and mice with TFE in accordance with § 798.3300 of this chapter if TFE yields a

positive result in any one of the following mutagenicity tests: The mouse micronucleus cytogenetics assay conducted pursuant to paragraph (c)(2)(i)(A) of this section, the mammalian cells in culture assay conducted pursuant to paragraph (c)(1)(i)(A) of this section or the sex-linked recessive lethal assay in *Drosophila melanogaster* conducted pursuant to paragraph (c)(1)(i)(B) of this section if, after public program review, EPA issues a **Federal Register** notice or sends a certified letter to the test sponsor specifying that testing shall be initiated. * * *

* * * * *

[FR Doc. 87-26391 Filed 11-13-87; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 11

Natural Resource Damage Assessments

AGENCY: Department of the Interior.

ACTION: Notice of availability—Type B technical information documents.

SUMMARY: The Department of the Interior announces the availability of the five Type B Technical Information Documents prepared in conjunction with the development of the type B procedures contained in the natural resource damage assessment regulations published on August 1, 1986 (51 FR 27673), and codified at 43 CFR Part 11. The natural resource damage assessment regulations were promulgated under the authority of section 301(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601 *et seq.*, as amended. The final Type B Technical Information Documents provide information pertinent in performing the natural resource damage assessments, however, they are not regulatory. The documents are being made available through the National Technical Information Service (NTIS).

ADDRESS: Office of Environmental Project Review, Room 4239, Department of the Interior, 1801 C Street NW., Washington, DC 20240 (regular business hours 7:45 a.m. to 4:15 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Linda Burlington (202) 343-1301.

SUPPLEMENTARY INFORMATION: The Department of the Interior announces the availability of the final Type B Technical Information Documents prepared in conjunction with the type B procedures of the natural resource damage assessment regulations published on August 1, 1986 (51 FR 27673). The natural resource damage assessment regulations were promulgated under the authority of section 301(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601 *et seq.*, as amended. The final Type B Technical Information Documents provide information that may be useful in interpreting the regulations and in performing natural resource damage assessments, but the documents themselves are not regulatory.

The Type B Technical Information Documents were made available for public review and comment in draft form on January 28, 1986 (51 FR 3480), in conjunction of the promulgation of the proposed type B natural resource damage assessment regulations, published on December 20, 1985 (50 FR 52126). The Department, upon review of the comments received on the draft documents, has revised the documents, where appropriate.

These documents evaluate some currently available techniques applicable to the various phases of a type B natural resource damage assessment to ensure that the steps and objectives outlined in the rule are feasible and to provide more specific information to those performing assessments, interested members of the public, and potentially responsible parties. The document "Injury to Fish and Wildlife Species" discusses in more detail the injury determination methodology developed in the final rule for fish and wildlife, and identifies certain procedures and injuries that meet the acceptance criteria for determining injury to fish and wildlife. The document "Application of Air Models to Natural Resource Injury Assessment" discusses the use of selected models to describe movement of oil or hazardous substances in air. The document "Guidance on Use of Habitat Evaluation Procedures and Suitability Index Models for CERCLA Application" recommends methods for adaption of the Habitat Evaluation Procedures (HEP), developed by the U.S. Fish and Wildlife Service, for use in quantifying habitat changes resulting from a discharge or release. The document "Approaches to the Assessment of Injury to Soil Arising from Discharges of Hazardous Substances and Oil" includes possible methods and procedures both for determining soil injury and for quantifying the effects of the injury to soil. The document "Techniques to Measure Damages to Natural Resources" provides additional discussion of economic methodologies, described in the final rule, that may be applied in the Damage Determination phase of a damage assessment, and discusses the acceptance criterion for selection of economic methodologies.

The Type B Technical Information Documents are being made available through the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; ph: (703) 487-4650. All requests for copies of these documents should be made directly to NTIS, not to the Department of the Interior. To expedite orders from NTIS, request the individual documents, or the document set, by the appropriate NTIS accession number (the "PB" number) and add a shipping and handling fee of $3.00 to each order. Also, payment to NTIS must accompany all mail orders. The NTIS order information is as follows:

1. Type B Technical Information Document: Injury to Fish and Wildlife Species;" U.S. Department of the Interior; prepared by U.S. Fish and Wildlife Service, Department of the Interior, and the University of Wyoming, Laramie, Wyoming; available from (NTIS), 5285 Port Royal Road, Springfield, VA 22161; PB88-100169; price: $19.95; ph: (703) 487-4650.

2. Type B Technical Information Document: Application of Air Models to Natural Resource Injury Assessment;" U.S. Department of the Interior; prepared by TRC Environmental Consultants, Inc., East Hartford, CT; EPA Contract No. 68-02-3886 Task No. 24, 1987; available from (NTIS), 5285 Port Royal Road, Springfield, VA 22161; PB88-100128; price: $14.95; ph: (703) 487-4650.

3. Type B Technical Information Document: Guidance on Use of Habitat Evaluation Procedures and Suitability Index Models for CERCLA Application;" U.S. Department of the Interior; prepared by U.S. Fish and Wildlife Service, Division of Biological Services, Western Energy and Land Use Team, Fort Collins, CO 80526-2899, 1987; available from (NTIS), 5285 Port Royal Road, Springfield, VA 22161; PB88-100151; price: $12.95; ph: (703) 487-4650.

4. Type B Technical Information Document: Approaches to the Assessment of Injury to Soil Arising from Discharges of Hazardous Substances and Oil;" U.S. Department of the Interior; Prepared by Pacific Northwest Laboratory, Richland, WA; Contract DE-AC06-76RLO 1830; 1987;

available from (NTIS), 5285 Port Royal Road, Springfield, VA 22161; PB88–100144; price: $14.95; ph: (703) 487–4650.

5. Type B Technical Information Document: Techniques to Measure Damages to Natural Resources;" U.S. Department of the Interior; prepared by Center for Economics Research, Research Triangle Institute, Research Triangle Part, NC 27711; EPA Contract No. 68–01–7033; available from (NTIS), 5285 Port Royal Road, Springfield, VA 22161; PB88–100136; price: $19.95; ph: (703) 487–4650.

These five Type B Technical Information Documents may also be ordered as a set through NTIS, at a discounted price. The set of five may be ordered as follows:

Type B Technical Information Documents Set;" PB88–100110; NTIS, 5285 Port Royal Road, Springfield, VA 22161; price: $70.50; ph: (703) 487–4650.

Although these documents are not available publicly through the Department, any questions concerning these documents may be mailed to the address given at the front of this notice.

Dated: November 10, 1987.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 87–26359 Filed 11–13–87; 8:45 am]

BILLING CODE 4310-RG-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87–193; RM–5641]

Radio Broadcasting Services; Manteo, NC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Lorin A. Costanzo and Peter G. Costanzo d/b/a Costanzo Broadcasters, substitutes Channel 251C2 for Channel 252A at Manteo, North Carolina, and modifies its permit for Station WZZI to specify the higher powered channel. Channel 251C2 can be allocated to Manteo in compliance with the Commission's minimum distance separation requirements and can be used at the site specified in Station WZZI's construction permit. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 28, 1987.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–193, adopted October 30, 1987, and released November 9, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments for Manteo, North Carolina, is amended by deleting Channel 252A and adding Channel 251C2.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87–26362 Filed 11–13–87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87–189; RM–5715]

Radio Broadcasting Services; Crete, NE

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Saline County Radio, Inc., substitutes Channel 281C2 for Channel 280A at Crete, Nebraska, and modifies its license for Station KBVB–FM to specify operation on the higher powered channel. Channel 281C2 can be allocated to Crete in compliance with the Commission's minimum distance separation requirements and can be used at Station KBVB–FM's present transmitter site. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 28, 1987.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–189, adopted October 30, 1987, and released November 9, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments for Crete, Nebraska, is amended by adding Channel 281C2 and deleting Channel 280A.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87–26363 Filed 11–13–87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87–140; FCC 87–339]

Broadcast Services; Review of Technical and Operational Requirements for Part 73–C Noncommercial Educational FM Broadcast Stations; U.S.-Mexican Border Area

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This rule will permit applicants for noncommercial educational FM (NCE FM) stations within 199 miles (320 km) of the Mexican border (border area) to submit applications basing their distance separations to domestic NCE FM stations on the prohibited overlap of predicted signal strength contours (contour method), while maintaining distances to Mexican stations as prescribed by international agreement. This action is needed in order to encourage the future growth of the NCE FM service in the border area, and establish a uniform NCE FM station application procedure throughout the United States.

EFFECTIVE DATE: December 18, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: David L. Workman, Mass Media Bureau, 202-632-9660.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order adopted on October 21, 1987 and released on November 4, 1987. The full text of this action is available for inspection and copying during normal business hours in the Federal Communications Commission Dockets Branch (Room 230), 1919 M St., NW., Washington DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, 202-857-3800, 1919 M St., NW., Room 246, Washington, DC 20554.

Summary of Report and Order

1. This *Report and Order* adopts rules authorizing the same domestic standards for NCE FM station applications in the U.S.-Mexican border area as are applicable to NCE FM stations in the rest of the United States. No change in the international procedures was contemplated. The new rules will allow border area NCE FM applicants to submit applications based on the contour method with respect to domestic NCE FMs, provided that the minimum mileage separation requirements are satisfied with respect to Mexican stations. Domestic NCE FM stations will still be subject to the obligations of the international agreement concerning FM broadcasting between the United States and Mexico (Mexican Agreement).

2. As a corollary to the adoption of the contour method, we will eliminate the table of allotments for NCE FMs in the border area from our rules. This action does not affect the original list of allotments contained in the Mexican Agreement nor subsequent revisions accepted by the U.S. and Mexico.

Ordering Clauses

Accordingly, it is ordered that under authority contained in section 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, Part 73 of the Commission's rules is amended as set forth below. It is further ordered that this proceeding is terminated.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended to read as follows:

PART 73—[AMENDED]

1. The authority citations for Part 73 continue to read as follows:

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

2. Section 73.202 is amended by revising subparagraph (a)(1) to read as follows:

§ 73.202 Table of allotments.

(a) * * *

(1) Channels designated with an asterisk may be used only by noncommercial educational broadcast stations. The rules governing the use of those channels are contained in § 73.501.

* * * * *

§ 73.501 [Amended]

3. Section 73.501 is amended by removing paragraph (c).

4. Section 73.504 is amended by revising the title, revising paragraph (a) and removing the table of channel assignments following paragraph (a); revising paragraph (b); removing paragraph (c); revising paragraph (d) and changing the designation of paragraph (d) to (c). The section is therefore revised to read as follows:

§ 73.504 Channel assignments in the Mexican border area.

(a) NCE-FM stations within 199 miles (320 km) of the United States-Mexican border shall comply with the separation requirements and other provisions of the "Agreement between the United States of America and the United Mexican States Concerning Frequency Modulation Broadcasting in the 88 to 108 MHz Band" as amended.

(b) Applicants for noncommercial educational FM stations within 199 miles (320 km) of the United States-Mexican border shall propose at least Class A minimum facilities (see § 73.211(a)). However, existing Class D noncommercial educational stations may apply to change frequency within the educational portion of the FM band in accordance with the requirements set forth in § 73.512.

(e) Section 73.208 of this chapter shall be complied with as to the determination of reference points and distance computations used in applications for new or changed facilities. However, if it is necessary to consider a Mexican channel assignment or authorization, the computation of distance will be determined as follows: if a transmitter site has been established, on the basis of the coordinates of the site; if a transmitter site has not been established, on the basis of the reference coordinates of the community, town, or city.

5. Section 73.509 is amended by revising paragraph (a) introductory text to read as follows:

§ 73.509 Prohibited overlap.

(a) An application for a new or modified NCE-FM station other than a Class D (secondary) station will not be accepted if the proposed operation would involve overlap of signal strength contours with any other station licensed by the Commission and operating in the reserved band (Channels 200-220, inclusive) as set forth below:

* * * * *

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-26216 Filed 11-13-87; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 52, No. 220
Monday, November 16, 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

Commodity Credit Corporation

7 CFR Part 1421

Standards for Approval of Warehouses for Grain, Rice, Dry Edible Beans, and Seed

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice to extend comment period.

SUMMARY: This document extends the comment period from November 9, 1987, to January 8, 1988, for proposed rule published in the **Federal Register** on October 8, 1987 [52 FR 37619] concerning warehouse bonding.

DATE: Comment period extended to January 8, 1988.

FOR FURTHER INFORMATION CONTACT: Steven Closson, Chief, Storage Contract Branch, Warehouse Division, USDA, Room 5962–South Building, P.O. Box 2415, Washington, DC 20013, (202) 447–5647.

SUPPLEMENTARY INFORMATION: Several State grain warehousing agencies have requested additional time to respond to the proposed rule. Because the proposed rule, if adopted, may affect the grain warehousing industry in a few States, the comment period is extended to January 8, 1988.

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

Milt Hurtz,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 87–26399 Filed 11–13–87; 8:45 am]

BILLING CODE 3410–05–M

Farmers Home Administration

7 CFR Parts 1924, 1941, 1962, and 1965

Implementation of Provisons of the Supplemental Appropriations Act (Public Law 100–71), Dated July 11, 1987

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its regulations to authorize the making of annual production loans or the granting of subordinations to delinquent FmHA borrowers, who operate or will operate not larger than family size farms; and who apply for assistance and show they can realistically project a positive cash flow, but only to the extent of repaying all annual production moneys borrowed and all supplier credit obtained for the planned production and marketing cycle, rather than on all current payments on debts outstanding. This assistance could be available only to those delinquent borrowers who could not qualify for an annual production loan after all servicing options had been considered, as set forth in Subpart A of Part 1951, "Account Servicing Policies", along with certain other requirements. The reason for amending these regulations is to comply with Amendment Number 222 of the Supplemental Appropriations Act (Pub. L. 100–71), dated July 11, 1987. The purpose of the Act is to have FmHA restore its procedures and policies to those in effect from October 1982 through November 1985, known as the "Continuation Policy."

DATE: Written comments must be submitted on or before December 16, 1987.

ADDRESS: Submit written comments, in duplicate, to the Office of the Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6348, South Agriculture Building, 14th Street and Independence Avenue SW., Washington, DC 20250. The Preliminary Regulatory Impact Analysis Statement (PRIA) and all written comments made pursuant to this notice, will be available for public inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mark Falcone, Senior Loan Officer, Farmer Programs Loan Making Division, Farmers Home Administration, USDA, South Agriculture Building, 14th Street and Independence Avenue SW., Washington, DC 20250, telephone (202) 475–4019.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Department Regulation 1512–1, which implements Executive Order 12291, and has been determined to be major because it will result in an annual effect on the economy of $100 million or more.

Summary of PRIA

The USDA has developed a Preliminary Regulatory Impact Analysis (PRIA) due to the effect this law will have on the economy. Because of this action, it is estimated that government costs resulting from implementation of this continuation policy in Fiscal Year 1988 will increase by approximately $717 million. Much of the cost is attributable to deterioration in collateral values and interest accruing on existing debt owed by the continuation policy borrowers. Additional costs will be due to losses on continuation loans and reduced incentives for borrowers, now current, to avoid delinquency.

Delay in debt settlement for borrowers likely to fail also erodes their net worth and is estimated to result in total borower losses of $357 million.

Further costs could result from losses to other FmHA applicants/borrowers, who show repayment ability on *all* current debts; and who are denied access to loan funds utilized by the continuation policy borrowers. With reduced funding for the insured loan program, credit provided continuation borrowers would be credit denied to those other applicants/borrowers. The denial of FmHA credit would result in increased financial stress and reduced prospects of success for them.

Given the extreme difficult financial condition experienced by most continuation borrowers, their prospects for recovery are severely limited. By definition, continuation policy borrowers show negative repayment prospects even after consideration of all available servicing actions, including:

rescheduling and reamortizing, at subsidized rates and longer terms; subordination of security to allow increased lending by other creditors; deferral; and other actions.

The likelihood of increased delinquency and lossses due to the continuation policy have been noted repeatedly in reports by the the General Accounting Office and the USDA Office of Inspector General. These reports all conclude that additional operation credit may extend the operation for another year, but does nothing to address basic problems of excessive debt, low prices, and management deficiencies.

Intergovernmental Consultation

1. For the reasons set forth in the final rule related to Notice 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983), Farm Operating Loans are excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Programs Affected

These changes affect the FmHA operating loan program, as listed in the Catalog of Federal Domestic Assistance:

10.406—Farm Operating Loans

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Discussion of Proposed Rule

The purpose of this proposed rule is to initiate the process of implementing the provisions of Amendment Number 222 of the Supplemental Appropriations Act (Pub. L. 100–71). That Act provides for the making of annual production loans and the granting of subordinations to delinquent FmHA borrowers, who cannot otherwise be assisted after considering all servicing options as set forth in Subpart A of Part 1951, "Account Servicing Policies". Such delinquent borrowers, who apply for assistance, must show they can realistically project a positive cash flow, but only to the extent of repaying all annual production monies borrowed and all supplier credit obtained for the planned production and marketing cycle, rather than on all current payments on debts outstanding, subject to certain conditions as enumerated in proposed § 1941.14 of Subpart A of Part 1941 of this chapter.

List of Subjects

7 CFR Part 1924

Agriculture, Construction and repair, Loan programs—Agriculture.

7 CFR Part 1941

Crops, Livestock, Loan programs—Agriculture, Rural areas, Youth.

7 CFR Part 1962

Crops, Government property, Livestock, Loan programs—Agriculture, Rural areas.

7 CFR Part 1865

Foreclosure, Loan programs—Agriculture, Rural areas.

Therefore, as proposed, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1924—CONSTRUCTION AND REPAIR

1. The authority citation for Part 1924 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23, 7 CFR 2.70

Subpart B—Management Advice to Individual Borrowers and Applicants

2. Section 1924.57 is amended by revising paragraph (c)(5)(ii) to read as follows:

§ 1924.57 Planning

* * * * *

(c) * * *

(5) * * *

(ii) Meet necessary payments on all debts, except as provided in § 1941.14 of Subpart A of Part 1941 of this chapter, for annual production loans made to delinquent borrowers.

* * * * *

PART 1941—OPERATING LOANS

3. The authority citation for Part 1941 continues to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Operating Loan Policies, Precedures and Authorizations

4. Section 1941.14 is added to read as follows:

§ 1941.14 Annual production loans delinquent borrowers.

Delinquent borrowers who otherwise meet the eligibility requirements found in § 1941.12 of this subpart, and who cannot be assisted after considering all servicing options in Subpart A of Part 1951 of this chapter, including distressed Farmer Programs loans for softwood timber production in applicable areas, may qualify for annual production loans under this section or subordinations under Subpart A of Part 1962 and Part 1965 of this chapter, when certain conditions are met. Such delinquent borrowers must apply for assistance and must show that they can realistically project a positive cash flow, but only to the extent of repaying all annual production monies borrowed and all supplier cerdit obtained for the planned production and marketing cycle, rather than an all current payments on debts outstanding, provided:

(a) All of the following conditions must also be met or the loan will not be made:

(1) The borrower has acted in good faith by demonstrating sincerity and honesty in meeting all agreements and promises made with and to the FmHA.

(2) The borrower has been unable to pay accounts as scheduled due to:

(i) Reduction in essential income from a non-farm job, e.g., unemployment or underemployment of the borrower-operator or spouse, caused by circumstances beyond the borrower's control;

(ii) Reduction in income caused by illness, injury or death of an individual borrower; or, in the case of an entity borrower, the stockholder, member, joint operator or partner who operates the farm; or

(iii) Reduction in income caused by natural disaster(s), an outbreak of uncontrollable disease, and/or uncontrollable insect damage, which caused severe loss of agricultural production that reduced the repayment ability of the borrower to the degree that scheduled payments cannot be met.

(3) The borrower has applied the improvements and key management practices spelled out in Item D of Form FmHA 431–2, "Farm and Home Plan," or in any other acceptable farm plan of operation.

(4) The borrower has properly maintained chattle and real estate security, and properly accounted for the sale of security, including crops, livestock and livestock production.

(5) A farm plan of operation projecting realistic production, commodity prices, family living expenses, and operating expenses, is developed; the proposed

cash flow projection shows that all operating expenses, reasonable family living expenses, and principal and accruing interest on all production loans and supplier credit for the production and marketing cycle can be repaid from the planned income. Borrowers will not be required to show that they can pay any principal or interest on other loans.

(6) Non-disturbance agreements will be obtained from all creditors for debts existing at the time of loan approval, for the period of the loan.

(b) Loans may be made only to pay annual operating and family living expenses as further explained in § 1941.16 of this Subpart.

(c) If a delinquent borrower applies for assistance under this section and *has not* yet been sent Form FmHA 1924–25, "Notice of Intent to Take Adverse Action", and Form FmHA 1924–26, "Borrower Acknowledgment of Notice of Intent to Take Adverse Action," the loan request will be processed and Forms FmHA 1924–25 and 1924–26 will not be sent unless the loan request is denied.

(d) If a delinquent borrower has been sent Forms FmHA 1924–25 and FmHA 1924–26, and applies for assistance under this section, the following action will be taken:

(1) If the borrower checked any box in Part I on Form 1924–26, the borrower will be informed that the request for a loan under this section will be held in abeyance pending a decision on the borrower's request for consideration of the servicing options listed in Part I of Form FmHA 1924–26.

(2) If the borrower checked box A in Part III on Form FmHA 1924–26, the borrower will be informed that a request for a loan under this section will be held in abeyance pending completion of the borrower's intention to pay the loan account(s) current.

(3) If the borrower checked any box in Parts II, III B, or IV on Form FmHA 1924–26, the borrower will be informed that the loan request, under this section, will be considered before the borrower's request for consideration under Parts II, III B, or IV of Form FmHA 1924–26.

(4) If the borrower is eligible for assistance under this section, the County Supervisor will notify the borrower, in writing, that no further liquidation actions will be taken until the production year has been completed and a decision is made whether or not FmHA will continue to finance the operation for another year.

(5) If the borrower is not eligible for assistance under this section and *either* the borrower had checked any box(es) in Part I on Form FmHA 1924–26 (and had been considered for these options as provided in paragraph (1) above), *or* if the borrower had checked box A in Part III on Form FmHA 1924–26 (and had not paid the loan account(s) current within the time period allowed), the County Supervisor will proceed as provided in § 1955.15(d)(2) of Subpart A of Part 1955 of this chapter.

(6) If the borrower is not eligible for assistance under this section and the borrower had checked any box(es) in Parts II, III B, or IV on Form FmHA 1924–26, the County Supervisor will proceed as provided in § 1924.72 of Subpart B of Part 1924 of this chapter.

(7) In *NO* case will a "Notice of Acceleration and Demand for Payment," Form FmHA 455–21, be sent until the loan or subordination request has been processed and any appeals resolved.

(e) Form FmHA 1941–1, "Criteria for Continuing Assistance to Delinquent Borrowers" is used to document the basis for continued assistance. The County Supervisor will date and sign the form and place it in position number three of the case file. At loan closing, or at the time of approval of a subordination, the County Supervisor will advise borrowers, by FmHA Form Letter 1941–A–1, "Advice to Borrower of Financial Condition," of their serious financial condition; the importance of carrying out the plan, as developed, for the production and marketing cycle being financed; and that FmHA is continuing to provide assistance for their operations only on a year-to-year basis. Borrowers will be further advised that their farming operations will be evaluated at the end of the production season and a decision will be made, at that time, whether FmHA will consider assistance for another year to continue their operations. The County Supervisor will answer any question(s) a borrower has concerning the letter and explain its purpose. FmHA Form letter 1941–A–1 will be signed and dated by the County Supervisor and the borrower(s) at loan closing or at the time of approval of a subordination. A copy will be given to the borrower, and the original will be retained in the case file to acknowledge the borrower's receipt of the letter.

PART 1962—PERSONAL PROPERTY

5. The authority citation for Part 1962 continues to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Servicing and Liquidation of Chattel Security

6. Section 1962.30 is amended by redesignating paragraphs (b)(1) through (b)(7) as paragraphs (b)(2) through (b)(8) and by adding a new paragraph (b)(1) to read as follows:

§ 1962.30 Subordination and waiver of FmHA liens on chattel security.

* * * * *

(b) * * *

(1) A subordination for an annual production loan only to a delinquent borrower may also be approved, if the borrower meets the requirements set forth in § 1941.14 of Subpart A of Part 1941 of this chapter.

* * * * *

PART 1965—REAL PROPERTY

7. The authority citation for Part 1965 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Servicing of Real Estate Security for Farmer Program Loans and Certain Note-Only Cases.

8. Section 1965.12 is amended by revising (b)(2)(ii)(C) to read as follows:

§ 1965.12 Subordination of FmHA mortgage to permit refinancing, extension, increase in amount of existing prior lien, to permit a new prior lien, or to permit reamortization.

* * * * *

(b) * * *

(2) * * *

(ii) * * *

(C) When a farm tract secures any FmHA loan, and it is determined essential for the borrower to remain in farming, the State Director may approve a subordination for annual operating credit when no other alternative exists. The reason(s) and justification supporting the subordination for operating expenses will be fully documented in the case file by the County Supervisor prior to submission to the State Director. A subordination for an annual production loan only, to a delinquent borrower, may also be approved by the State Director, if the borrower meets the requirements in § 1941.14 of Subpart A of Part 1941 of this chapter.

* * * * *

Date: October 22, 1987.

La Verne Ausman,

Acting Under Secretary for Small Community and Rural Development.

[FR Doc. 87–26391 Filed 11–13–87; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-NM-145-AD]

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes, which would require the installation of a door in the vertical fin access opening in the Section 48 fuselage section, and the installation of covers in the four front spar access holes of the horizontal stabilizers. This action is needed because the vertical fin and horizontal stabilizers could be overpressurized to the point of structural failure in the event of a failure of the aft pressure bulkhead.

DATE: Comments must be received no later than January 6, 1988.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel [Attn: ANM-103], Attention: Airworthiness Rules Docket No. 87-NM-145-Ad, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, FAA, Northwest Mountain region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Scott F. Romer, Airframe Branch, ANM-120S; telephone (206) 431-1966. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel [Attn: ANM-103], Attention: Airworthiness Rules Docket No. 87-NM-145-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

Recent analysis conducted by the manufacturer has shown that a massive rupture of the aft pressure bulkhead of the Model 757 airplane would result in a significant pressure rise in the unpressurized tail section, Section 48, and possibly an overpressurization of the vertical fin and horizontal stabilizers inspar areas. Overpressurization of the vertical fin and horizontal stabilizers could cause damage to the inspar structure which, in turn, could preclude the airplane's continued safe flight and landing. Providing a fin access door and covers for horizontal stabilizers would greatly reduce the potential for overpressurization of the fin and horizontal stabilizers in the event of a rupture of the aft pressure bulkhead.

The FAA has reviewed and approved Boeing Service Bulletin 757-53-0038, dated August 27, 1987, which describes the installation of a vertical fin access door and horizontal stabilizer covers to preclude failure of the fin and stabilizers structure in the event of a failure of the aft pressure bulkhead.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require modification in accordance with the service bulletin previously mentioned.

It is estimated that 139 airplanes of U.S. registry would be affected by this AD, that it would take approximately 24 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The cost of the kit is $4,043. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $695.417.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Model 757 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 757 series airplanes listed in Boeing Service Bulletin 757-53-0038, dated August 27, 1987, certificated in any category. Compliance required within 15 months after the effective date of this AD, unless previously accomplished.

To prevent structural failure of the vertical fin and horizontal stabilizers in the event of a failure of the aft pressure bulkhead, accomplish the following:

A. Install a vertical fin access door and horizontal stabilizer covers in accordance with Boeing Service Bulletin 757-53-0038, dated August 27, 1987, or later FAA-approved revision.

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

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

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

Issued in Seattle, Washington, on November 3, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-26331 Filed 11-13-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-NM-114-AD]

Airworthiness Directives; Boeing Model 767 Series Airplanes and Boeing Model 757 Series Airplanes Equipped with Rolls-Royce RB211 Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD), applicable to all Model 767 series airplanes and those Model 757 series airplanes equipped with Rolls-Royce RB211 engines, that currently requires installation of a guard on the fuel shut off panel. This action would require relocation of the electronic engine control (EEC) switches and the engine limited control (ELC) switches (Model 757 only) from the control stand to the overhead panel. This proposal is prompted by reports of dual engine shutdowns in flight on the Model 767 airplane. These shutdowns occurred when the flight crews were reported to have inadvertently shut off the fuel control switches to each engine while intending to operate the EEC switches. The EEC switches on the Model 767 are located on the control stand just aft of the fuel control switches. Since the EEC switches or ELC switches on the Rolls-Royce RB211 powered Model 757 airplanes are located in a similar position on the control stand, the potential exists for the same inadvertent crew action to be taken on these airplanes. This condition, if not correct, could lead to inadvertent engine shutdowns.

DATE: Comments must be received no later than January 4, 1988.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-114-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: Mr. Bernie Gonzalez, Propulsion Branch, ANM-140S, telephone (206) 431-1964. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-114-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

On June 30, 1987, a Boeing Model 767 airplane on climbout had a cockpit message indicating a failure of the electronic engine control (EEC) on one engine. The flight manual procedure for such a failure message is to retard both thrusts levers to a mid position and place both EEC switches to "OFF." In following this procedure, the crew inadvertently shut off the fuel control switches to both engines instead of the EEC switches, which are located in the same vicinity on the control stand. The airplane was at approximately 2,000 feet altitude at the time of the shutdown and engine restart was initiated immediately. Both engines recovered at approximately 500 feet altitude.

This is the second reported incident in which both engines have been inadvertently shut down while the crew was following a procedure that involves actuation of the EEC switches.

To reduce the risk of inadvertent dual engine shutdown, the FAA took interim action by issuance of Airworthiness Directive (AD) 87-13-51, Amendment 39-5718 (52 FR 33917; September 9, 1987). That AD requires a switch guard to be installed between the fuel control switches on all Model 767 airplanes, and on those Model 757 airplanes equipped with Rolls-Royce RB211 engines. It is proposed that this interim action be superseded by requiring relocation of the EEC switches and ELC switches from the control stand to the overhead panels.

In taking this action, the FAA recognizes that flight crew performance and response to abnormal conditions and/or malfunction warnings messages can be significantly affected by the configuration and location of the various controls on the flight deck. The proximity of controls and the similarity of procedures may combine to produce an inappropriate crew response. It is considered that the proximity of the EEC switches to the fuel cut off switches on the control stand was contributory to the two reported incidents.

Additionally, no incidents have been reported of inadvertent fuel cut off switch actuation on similar aircraft which have remotely-located EEC switches.

Since this condition is likely to develop on other airplanes of this type design, an AD is proposed that would require relocating the engine limiter control switches and the electronic engine control switches from the control stand to the overhead panel on Boeing Model 757 series airplane equipped with Rolls-Royce RB211 engines and Model 767 series airplanes.

The Boeing Commercial Airplane Company is preparing service bulletins which will contain instructions for the accomplishment of these modifications. The FAA may consider referencing these service bulletins in the final rule as an approved method of compliance.

It is estimated that 31 Model 757 airplanes and 81 Model 767 airplanes

would be affected by this AD; that it would take approximately 24 manhours per Model 757 airplane and 28 manhours per Model 767 series airplane to accomplish the required actions; and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $120,480.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 757 and 767 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By superseding AD 87-13-51, Amendment 39-5718 (52 FR 33917; September 9, 1987), with the following new airworthiness directive:

Boeing: Applies to all Model 767 series airplanes and to those Model 757 series airplanes equipped with Rolls-Royce RB211 engines, certificated in any category. Compliance required within the next 2,000 hours time in service or one year after the effective date of this AD, whichever occurs first, unless previously accomplished.

To minimize the potential for inadvertent engine shutdown when using the electronic engine control (EEC) or engine limiter control (ELC) switches, accomplish the following:

A. Relocate the electronic engine control switches or engine limiter control switches, as applicable, from the control stand to the overhead panel in a manner approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

B. The fuel control switch guard installation made in compliance with AD 87-13-51, Amendment 39-5718, may be removed following accomplishment of paragraph A., above.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety and which has the concurrence of an FAA Principal Maintenance Inspector, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

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

Issued in Seattle, Washington, on October 30, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-26326 Filed 11-13-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-ASW-46]

Airworthiness Directives; Societe Nationale Industrielle Aerospatiale Alouette/Lama Model SA 315B, SA 316O, SA 316B, SA 316C, SA 318O, SA 318B, SA 318C, and SA 319B Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) applicable to Societe Nationale Industrielle Aerospatiale (SNIAS) Alouette/Lama Model SA 315B, SA 316O, SA 316B, SA 316C, SA 318O, SA 318B, SA 318C, and SA 319B helicopters, which would supersede AD 73-13-02, Amendment 39-1666, as amended by Amendment 39-2527. The proposed new AD would require accomplishment of a manufacturer's mandatory service bulletin to improve the sealing on the freewheel and main gear box/freewheel/clutch unit coupling. The proposed new AD is needed to eliminate confusion and conflicting maintenance information and inspection intervals between the existing AD and mandatory manufacturer's maintenance instructions.

DATES: Comments must be received on or before March 11, 1988.

ADDRESSES: Comments on the proposal may be mailed in duplicate to: Office of the Regional Counsel, Federal Aviation Administration, Southwest Region, Fort Worth, Texas 76193-0007, or delivered in duplicate to: Office of the Regional Counsel, Federal Aviation Administration, Southwest Region, Room 158, Building 3B, 4400 Blue Mound Road, Fort Worth, Texas.

Comments must be marked: Docket No. 87-ASW-46.

Comments may be inspected at Room 158, Building 3B, Office of the Regional Counsel, Southwest Region, between 8 a.m. and 4 p.m., weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Samuel E. Brodie, Department of Transportation, Federal Aviation Administration, Fort Worth, Texas 76193-0110, telephone (817) 624-5116.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket, Office of the Regional Counsel, Southwest Region, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped/postcard on which the following statement is made: "Comments to Docket No. 87-ASW-46." The postcard will be date/time stamped and returned to the commenter.

AD 73-13-02, Amendment 39-1666, as amended by Amendment 39-2527, currently requires compliance with certain SNIAS mandatory service bulletins, and also requires recurring inspections of the freewheel shaft on SNIAS Lama and Alouette model helicopters. After issuing AD 73-13-02, the FAA determined that the manufacturer has issued mandatory service bulletins which supersede the service bulletins referenced in the

current AD contradicting the information contained in AD 73-13-02. Therefore, the FAA is proposing to issue a new AD superseding AD 73-13-02 and requiring compliance with the superseding manufacturer's service bulletins on SNIAS Lama and Alouette model helicopters.

The FAA has determined that this proposed regulation only involves 177 helicopters. The proposed AD will reduce the inspection requirements for the helicopters involved, thereby resulting in reduced maintenance costs to the fleet of $223,000 per year. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.139 [Amended]

2. By adding the following new AD:

SOCIETE NATIONALE INDUSTRIELLE AEROSPATIALE (SNIAS): Applies to all SNIAS Alouette/Lama Model SA 315B, SA 316O, SA 316B, SA 316C, SA 318O, SA 318B, SA 318C, and SA 319B helicopters, equipped with main gearbox P/N 316OS62-00-000 or P/N 319A62-00-000; freewheel P/N 316OS60-10-000; and clutch P/N 316OS63-20-000, P/N 318OS63-10-000, or P/N 319A63-00-000, certificated in all categories.

Compliance is required as indicated (unless already accomplished).

To prevent further failures of the main drive shaft and freewheel assemblies by ensuring proper operation of the main gearbox oil jet, P/N 316OA62-01-002, and to improve sealing at the freewheel attachment joints, accomplish the following:

(a) Within the next 100 hours' time in service or upon observance of a freewheel coupling and seal oil leak, whichever is earlier, comply with Alouette Service Bulletin 65-81, Issue 2, dated February 14, 1979, or Lama Service Bulletin 65-06, Issue 2, dated February 14, 1979, as applicable.

(b) After compliance with paragraph (a) of this AD, accomplish the following: After the first flight following the installation of a new or overhauled main gearbox, then every 100 hours' time in service, comply with section 1(c) of Alouette Service Bulletin 05-65, dated February 14, 1979, or Lama Service Bulletin 05-14, dated February 14, 1979, as applicable.

Note.—Service Bulletin 05-65 supersedes Service Bulletin 05-42, dated November 10, 1971, and Service Bulletin 05-14 supersedes Service Bulletin 05-01, dated November 10, 1971.

(c) An alternate method of compliance, which provides an equivalent level of safety, may be used when approved by the Manager, Aircraft Certification Division, Department of Transportation, Federal Aviation Administration, Fort Worth, Texas 76193-0100, or by the Manager, Brussels Aircraft Certification Office, AEU-100, c/o American Embassy, Brussels, Belgium, APO NY 09667.

Issued in Fort Worth, Texas, on October 22, 1987.

C.R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 87-26324 Filed 11-13-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 85N-0061]

Food Labeling; Public Health Messages on Food Labels and Labeling; Extension of Comment Period; Correction

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; extension of comment period; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the proposed rule that extended for 60 days the period for submitting comments on its proposal to allow the listing of public health messages on food labels, and to propose amendments to 21 CFR 101.9 on nutrition labeling that published in the **Federal Register** of November 2, 1987 (52 FR 42003). The date for submitting comments was inadvertently stated as January 2, 1988. This document corrects that error by changing the date to January 4, 1988.

DATE: Comments by January 4, 1988.

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: T. Rada Prochl, Regulations Editorial Staff (HFC-222), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 87-25272 appearing at page 42003 in the **Federal Register** of Monday, November 2, 1987, on page 42004 in the first column under the **DATE** section and the second column, second paragraph, second line, "January 2, 1988" is corrected to read "January 4, 1988."

Dated: November 9, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-26342 Filed 11-13-87; 8:45 am]

BILLING CODE 4160-01-M

PEACE CORPS

22 CFR Part 303

The Freedom of Information Reform Act of 1986; Proposed Fee Schedule and Administrative Guidelines

AGENCY: Peace Corps.

ACTION: Proposed rule.

SUMMARY: This proposed rule implements certain provisions of the Freedom of Information Reform Act of 1986 which require Federal Agencies to establish a uniform schedule of FOIA fees.

DATE: Comments must be received on or before December 16, 1987.

ADDRESS: Comments should be submitted to the Paperwork and Records Management Branch, Peace Corps, 806 Connecticut Avenue, NW., Room P-314, Washington, DC 20526.

FOR FURTHER INFORMATION CONTACT: John von Reyn, Chief, Paperwork and Records Management Branch, Office of Administrative Services, (202) 254-6020.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Peace Corps has determined that this proposed rule is not a major rule because it is not likely to result in an annual effect on the economy of $100 million or more.

Paperwork Reduction Act

This proposed rule imposes no obligatory information requirements on the public.

Regulatory Flexibility Act of 1980

The Director certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 22 CFR Part 303

Administrative practice and procedure, Freedom of information, Records.

It is proposed to amend 22 CFR Part 303 as follows:

PART 303—INSPECTION AND COPYING OR RECORDS: RULES FOR COMPLIANCE WITH FREEDOM OF INFORMATION ACT

1. The authority citation for Part 303 is revised to read as follows:

Authority: 5 U.S.C. 552; Pub. L. 87–293 as amended (22 U.S.C. 2501 et seq.); Pub. L. 97–113, sec. 601; Pub. L. 99–570; E.O. 12137, May 16, 1979.

2. Section 303.10 is revised to read as follows:

§ 303.10 Schedule of fees.

(a) *General.* It is the policy of the Peace Corps to encourage the widest possible distribution of information concerning programs under its jurisdiction. To the extent practicable, this policy will be applied under this part so as to permit requests for inspection or copies of records to be met without substantial cost to the person making the request. Search and reproduction charges will be made in accordance with paragraph (c) of this section. On a case-by-case basis, the Peace Corps will conduct a thorough review of all fee waiver requests and will grant waivers of reductions in fees only in those cases in which the requester establishes that the disclosure of the information will primarily benefit the general public. The Agency shall charge fees that recoup the full direct costs incurred. The most efficient and least costly methods to comply with requests for documents made under the FOIA shall be used. When documents that would be responsive to a request are maintained for distribution by agencies operating statutory-based fee schedule programs, the Agency shall inform requesters of the steps necessary to obtain records from those sources.

(b) *Definitions.* The Agency adopts the following definitions contained in OMB's "Uniform Freedom of Information Act Fee Schedule and Guidelines," that relate to this section:

(1) The term "direct costs" means those expenditures which an agency actually incurs in searching for and duplicating (and in the case of commercial requesters, reviewing) documents to respond to an FOIA request.

(2) The term "search" includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents.

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

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

(5) The term " 'commercial use' request" refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade or profit interests of the requester or the person on whose behalf the request is made.

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

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

(8) The term "representative of the news media" refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who made their products available for purchase or subscription by the general public. These examples are not intended to be all-inclusive. Moreover, as traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunications services), such alternative media would be included in this category. In the case of freelance journalists, they will be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. A publication contract would be the clearest proof, but the Agency will also look to the past publication record of a requester in making a determination.

(c) *Fees to be charged*—(1) *Manual searches for records*—Whenever feasible, the Agency will charge at the salary rate(s) (i.e. basic pay plus 16 percent) of the employee(s) making the search. However, where a homogeneous class of personnel is used exclusively (e.g., all administrative/clerical, or all professional/executive), the Agency may establish an average rate for the range of grades typically involved.

(2) *Computer searches for records*—The Agency will charge at the actual direct cost of providing the service. This will include the cost of operating the central processing unit (CPU) for that portion of operating time that is directly attributable to searching for records responsive to an FOIA request and operator/programmer salary apportionable to the search. When the Agency can establish a reasonable Agency-wide average rate for CPU operating costs and operator/programmer salaries involved in FOIA searches, it may do so and charge accordingly.

(3) *Review of records*—Only requesters who are seeking documents for commercial use will be charged for time spent reviewing records to determine whether they are exempt from mandatory disclosure. Charges shall be assessed only for the initial review; i.e., the review undertaken the first time the Agency analyzes the applicability of a specific exemption to a particular record or portion of a record. The Agency will not charge for review at the administrative appeal level of an exemption already applied. However, if records or portions of records withheld in full under an exemption which is subsequently determined not to apply are reviewed again to determine the applicability of other exemptions not previously considered, the cost for such a subsequent review is properly

assessable. Where a single class of reviewers is typically involved in the review process, the Agency may establish a reasonable Agency-wide average and charge accordingly.

(4) *Duplication of records*—The charge for paper copy reproduction of documents as of the date of publication is three cents per page. This charge represents the average Agency-wide direct cost of making such copies, taking into account the salary of the operators as well as the cost of the reproduction machinery. The rate shall be adjusted annually. Current rates may be requested from the Director, Office of Administrative Services. For copies prepared by computer, such as tapes or printouts, the Agency will charge the actual cost, including operator time, or production of the tape or printout. For other methods of reproduction or duplication, the Agency will charge the actual direct costs of producing the document or documents.

(5) *Other charges*—(i) The Agency shall recover the full cost of certifying that records are true copies. The Agency will charge the salary rate(s) (i.e. basic pay plus 16 percent] of the employee(s) certifying the records. (ii) The Agency shall recover the full cost of sending records by special methods such as express mail, etc. The Agency shall not furnish the records until payment for such service has been received by the Agency. The Agency is not required to comply with requests for special mailing services.

(6) *Restrictions on assessing fees.* (i) With the exception of requesters seeking documents for a commercial use, the Agency will provide the first 100 pages of duplication and the first two hours of search time without charge. The Agency will not charge fees to any requester, including commercial use requesters, if the cost of collecting the fee would be equal to or greater than the fee itself. Except for commercial use requesters, the Agency will not begin to assess fees until after the free search and reproduction services have been provided.

(ii) The elements to be considered in determining the "cost of collecting a fee," are the administrative costs to the Agency of receiving and recording a requester's remittance, and processing the fee for deposit in the Treasury Department's special account. The pre-transaction cost to the Treasury to handle such remittance will not be considered in the Agency's determination.

(iii) For purposes of these restrictions on assessment of fees, the word "pages" refers to paper copies of a standard agency size which will normally be "8½ x 11" or "11 by 14".

(iv) The term "search time" in this context means manual search. To apply this term to searches made by computer, the Agency will determine the hourly cost of operating the central processing unit and the operator's hourly salary plus 16 percent. When the cost of the search (including the operator time and the cost of operating the computer to process a request) equals the equivalent dollar amount of two hours of the salary of the person performing the search, i.e., the operator, the Agency will begin assessing charges for computer search.

(d) *Payment of cost.* (1) A request for documents must state that the requester will pay any or all reasonably necessary costs, or costs up to an amount specified in such request. If the head of the unit or the Director of Administrative Services determines that the anticipated cost for search and duplication of the records requested will be in excess of $25, or in excess of the limit specified in the request, the Director of Administrative Services shall advise the requester promptly after receipt of the initial request. Such notification shall specify the anticipated cost of search and reproduction of the records requested. The requester may thereafter amend his or her request to specify fewer documents or agree to accept the estimate of anticipated costs, in which case the request shall be deemed received by the Agency upon the receipt date of the requester's response. A requester may, prior to making a request, ask for an estimate of cost from the Director of Administrative Services who shall promptly respond to such request.

(2) *Method of payment.* Payment shall be sent or delivered to the Collections Officer, Accounting Division. Such payment must be by check or money order payable to Peace Corps—FOIA. A receipt for fees shall be provided upon request.

(e) *Fees to be charged—categories of requesters.* There are four categories of FOIA requesters: commercial use requesters; educational and non-commercial scientific institutions; representatives of the news media; and all other requesters. The Act prescribes specific levels of fees for each of these categories:

(1) *Commerical use requesters*—The Agency will assess charges which recover the full direct costs of searching for, reviewing for release, and duplicating the records sought for commerical use. Commercial use requesters are not entitled to two hours of free search time nor 100 free pages of reproduction of documents.

(2) *Educational and non-commercial scientific institution requesters*—The Agency will provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, requesters must show that the request is being made as authorized by and under the auspices of a qualifying institution and that the records are not sought for a commerical use, but are sought in furtherance of scholarly (if the request is from an educational institution) or scientific (if the request is from a non-commercial scientific institution) research.

(3) *Requesters who are representatives of the news media*—The Agency will provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, a requester must meet the definition described in paragraph (b)(8) of this section, and his or her request must not be made for a commercial use. In reference to this class of requester, a request for records supporting the news dissemination function of the requester shall not be considered to be a request that is for a commercial use.

(4) *All other requesters*—Requesters who do not fit into any of the categories above will be charged fees which recover the full direct cost of searching for and reproducing records that are responsive to the request, except that the first 100 pages of reproduction and the first two hours of search time will be furnished without charge. Requests from individuals for records about themselves filed in the Agency's systems of records will continue to be treated under the fee provisions published in the Agency's Privacy Act regulations (22 CFR Part 308).

(f) *Waiving or reducing fees.*—(1) *General.* The Agency will furnish documents without charge or at reduced charges if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. A requester may, in his or her original request, or subsequently, ask for a fee waiver or that documents be furnished at a reduced charge. A request for documents shall not be deemed to have been received until a determination of the question of fee waiver or reduction has been made, provided however, that such determination shall be made within five working days from the receipt of a fee

waiver request. A request for waiver or reduction of fees shall specify the amount of reduction requested and the reasons which cause the requester to feel that the criteria for waiver or reduction of fees have been met.

(2) *Procedures.* (i) Upon receipt of a fee waiver or fee reduction request the Director of Administrative Services shall refer such request to the Director of the Peace Corps or such official as he or she may designate. The Director or designee will promptly determine whether such request should be granted in whole or in part, and such determination is final. The request shall be reviewed in accordance with the following Statutory Freedom of Information Act fee waiver criteria:

(A) Whether disclosure of the information "is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government"; and

(B) That disclosure of the information "is not primarily in the commercial interest of the requester."

(ii) There are six general factors which are considered in determining whether the statutory criteria for fee waiver have been met:

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

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

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

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

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

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

(g) *Administrative actions to improve assessment and collection of fees.* The agency shall ensure that procedures for assessing and collecting fees are applied consistently and uniformly.

(1) Charging interest. The Agency will begin assessing interest charges on an unpaid bill starting on the 31st day following the day on which the billing was sent. The fact that the fee has been received by the Agency, even if not processed, will suffice to stay the accrual of interest. Interest will be at the rate prescribed in section 3717 of Title 31, United States Code, and will accrue from the date of the billing.

(2) *Charges for unsuccessful search.* The Agency will assess charges for time spent searching, even if the Agency fails to locate the records or if records located are determined to be exempt from disclosure.

(3) Aggregating requests. A requester may not file multiple requests at the same time, each seeking portions of a document or documents, solely in order to avoid payment of fees. When the Agency reasonably believes that a requester or, on rare occasions, a group of requesters acting in concert, is attempting to break a request down into a series of requests for the purposes of evading the assessment of fees, the Agency may aggregate any such requests and charge accordingly. The Agencies will not aggregate multiple requests on unrelated subjects from one requester.

(4) Advance payments. (i) Advance payment, i.e., payment before work is commenced or continued on a request are not required unless:

(A) The Agency estimates or determines that allowable charges that a requester may be required to pay are likely to exceed $250. Then, the Agency shall notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees, or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment; or

(B) Where a requester has previously failed to pay a fee charged in a timely fashion (i.e. within 30 days of the date of the billing), the Agency may require the requester to pay the full amount owed plus any applicable interest as provided above, or to demonstrate that he has, in fact, paid the fee, and to make an advance payment of the full amount of the estimated fee before the Agency begins to process a new request or a pending request from that requester.

(ii) When the Agency acts under paragraph (g)(4)(i) of this section, the administrative time limits prescribed in subsection (a)(6) of the FOIA (i.e., 10 working days from receipt of initial requests and 20 working days from receipt of appeals from initial denial, plus permissible extensions of these time limits) will begin only after the Agency has received fee payments described above.

(5) Effect of the Debt Collection Act of 1982 (Pub. L. 97–365). The Agency will follow those debt collection procedures published in 22 CFR Part 309 where appropriate, to encourage repayment.

Dated: October 29, 1987.

Loret Miller Ruppe,

Director.

[FR Doc. 87–26240 Filed 11–13–87; 8:45 am]

BILLING CODE 6051–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87–502, RM–6052]

Radio Broadcasting Services; Star Lake, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Tia A. Soliday proposing the allocation of Channel 290B1 to Star Lake, New York, as the community's first local FM service. Channel 290B1 can be allocated to Star Lake in compliance with the Commission's minimum distance separation requirements with a site restriction of 18.4 kilometers (11.4 miles) southeast to avoid a short-spacing to Station CHEZ–FM, Channel 291C1, Ottawa, Ontario. Canadian concurrence in the allotment is required since Star Lake is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before January 4, 1988, and reply comments on or before January 19, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Tia A. Soliday, 6481 Newport Road, Warners, New York 13164 (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, MM Docket No. 87–502, adopted October 30, 1987, and released November 9, 1987. The full text of this Commission decision is available for inspection and copying during

normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration of court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87–26364 Filed 11–13–87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87–501, RM–6051]

Radio Broadcasting Services; Old Forge, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by George W. Kimble proposing the allocation of Channel 259A to Old Forge, New York, as the community's first local FM service. Channel 259A can be allocated to Old Forge in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.9 kilometers (5.6 miles) southwest to avoid a short-spacing to the construction permit of Station WGFB, Channel 260, Plattsburgh, New York. No site restriction will be needed if Station WGFB is licensed with the Class C1 facilities specified in its pending application (BMPH–870331PZ). Canadian concurrence is required since Old Forge is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before January 4, 1988, and reply comments on or before January 19, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: George W. Kimble, 3403 W. Lake Road, Canandaigua, New York 14424 (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–501, adopted October 30, 1987, and released November 9, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration of court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contract.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87–26365 Filed 11–13–87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87–500, RM–6050]

Radio Broadcasting Services; Copenhagen, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Kevin O'Kane proposing the allocation of Channel 294A to Copenhagen, New York, as the community's first local FM service. Channel 294A can be allocated to Copenhagen in compliance with the Commission's minimum distance separation requirements with a site restriction of 6.5 kilometers (4 miles) south to avoid a short-spacing to unused and unapplied for Channel 293A at Brockville, Ontario, Canada. No site restriction would be required if the Canadian proposal to delete Channel 293A at Brockville is finalized.

DATES: Comments must be filed on or before January 4, 1988, and reply comments on or before January 19, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Kevin O'Kane, 3999 No. Nine Road, Cazenovia, New York 13035 (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–500, adopted October 30, 1987, and released November 9, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration of court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 74:

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87-26367 Filed 11-13-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-499, RM-6053]

Radio Broadcasting Services; Henderson, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Tia A. Soliday proposing the allocation of Channel 264A to Henderson, New York, as the community's first local FM service. Channel 264A can be allocated to Henderson in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. Concurrence by the Canadian government is required since Henderson is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before January 4, 1988, and reply comments on or before January 19, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Tia A. Soliday, 6481 Newport Road, Warners, New York 13164 (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-499, adopted October 30, 1987, and released November 9, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complex text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration of court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87-26366 Filed 11-13-87; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 52, No. 220
Monday, November 16, 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

Animal and Plant Health Inspection Service

[Docket No. 87-151]

Animal Damage Control Program Environmental Impact Statement

AGENCY: Animal and Plant Health Inspection Services, USDA.

ACTION: Notice.

SUMMARY: This document advises the public that the Animal and Plant Health Inspection Service intends to prepare a new environmental impact statement (EIS) for the federal/cooperative Animal Damage Control program. This document also requests comments and gives notice of scoping meetings, to allow for public involvement in the scoping process as the first step in development of the EIS. The impacts on the environment of the program's control of damage caused by wild animals will be evaluated in the EIS.

DATES: Written comments must be received by January 20, 1988. Scoping meetings concerning issues affecting the development of the EIS will be held in Sacramento, California, on December 15, 1987; in Kansas City, Missouri, on December 17, 1987; and in Washington, DC, on December 21, 1987.

ADDRESSES: Send an original and two copies of written comments concerning issues to be addressed during development of the EIS to Steven B. Farbman, Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782. Please state that your comments refer to Docket No. 87-151. 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 scoping meetings will be held at the following locations: (1) On December 15, 1987, at the Ramada Inn, 1900 Canterbury Road, Sacramento, California; (2) on December 17, 1987, at the Hyatt Regency Crown Center, 2345 McGee Street (New York Room), Kansas City, Missouri; and (3) on December 21, 1987, at the U.S. Department of Agriculture, 14th and Independence Avenue, SW., Jefferson Auditorium (between 5th and 6th wings, South Building), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gary D. Simmons, Staff Officer, National Technical Support Staff, ADC, APHIS, USDA, Room 565A, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, 301-436-8657.

SUPPLEMENTARY INFORMATION:

Public Notice/Request for Comments

This document advises that the Animal and Plant Health Inspection Service (APHIS) intends to prepare a new environmental impact statement (EIS) for the federal/cooperative Animal Damage Control (ADC) program. The impacts on the environment of the program's control of damage caused by wild animals will be evaluated in the EIS.

This document also requests comments, and gives notice of scoping meetings to allow public involvement in the scoping process as the first step in development of the EIS. Accordingly, comments at the scoping meetings and written comments by mail are invited from the public; from federal, state, and local agencies that have an interest in ADC or related programs; and from federal and state agencies that have either juridiction by law or special expertise regarding any national program issue or environmental impact that should be discussed in the EIS.

Scoping Process/Procedures for Scoping Meetings

The initial step in the process of EIS development is scoping. Scoping includes solicitation of public involvement in the form of either written or oral comments, and evaluation of those comments. This process is used for determining the scope of issues to be addressed and for identifying the significant issues related to the federal/cooperative ADC program.

A representative of APHIS will preside at the scoping meetings, where comments will be taken concerning any issue that would be relevant for consideration during preparation of the EIS. Interested persons may appear and be heard in person or by attorney or other representative.

Each meeting will begin at 8:30 a.m. and is scheduled to end at 4:30 p.m., local time. However, a meeting may be ended earlier if all persons who are present and who have requested an opportunity to speak have been heard. Persons who wish to speak should register with the presiding officer before the meeting. Pre-meeting registration will be conducted at each meeting location from 8 a.m. to 8:30 a.m., local time, on the meeting date. Registered persons will be heard in the order of their registration. However, other persons who wish to speak at the meeting will be afforded that opportunity after the registered persons have been heard. It is requested that three copies of any written statements that are presented be provided to the presiding officer at the meeting. If the member of preregistered persons and other participants at the meeting warrants, the presiding officer may limit the time for each presentations, in order to allow everyone wishing to speak an opportunity to be heard.

Background

Wild animals can destroy agricultural crops, grazing lands, livestock and poultry, buildings, irrigation works, or other structures, and can transmit disease. Losses and threats to agricultural interests are commonly termed "animal damage." The management of the problems caused by wildlife is commonly termed "animal damage control" and is a recognized discipline within the art and science of wildlife management. The Animal and Plant Health Inspection Service (APHIS) operates an Animal Damage Control (ADC) program whose responsibility is to identify, demonstrate, and apply the best methods of controlling animal damage in order to protect agriculture, horticulture, forestry, animal husbandry, wild game animals, fur-bearing animals, and birds, and for the protection of stock and other domestic animals through the suppression of rabies and tularemia in predatory or other wild animals.

The ADC program conducts a wide range of activities in cooperation with federal, state, and local agencies to protect agriculture and certain wildlife

from animal damage pursuant to the Animal Damage Control Act of March 2, 1931 (7 U.S.C. 426–426b). The program protects these interests from injurious animals. The program includes both actual control and the providing of information through control demonstrations and other methods relating to a broad range of animal damage problems. Control includes predator control to protect livestock, bird control to protect agriculture and forestry crops, and rodent control to protect crops, rangeland, and forests. Attention is given to pre and postharvest losses. The program uses a management approach that involves the combination of physical, biological, and chemical methods best suited for a given control situation. The major animal damage control activity is assistance to reduce predation on livestock in the West. Most of this effort is operational and is directed at carnivores. The main predator damage control techniques used include aerial and ground shooting, M–44 sodium cyanide devices, and traps and snares. Nonlethal predator damage control techniques, including fencing and improved herding practices, are also employed or recommended when their use is appropriate.

The ADC program also conducts research to evaluate animal damage situations, and research methods and tools to reduce or eliminate damage. Activities include research and testing of animal damage control techniques involving chemical, physical, biological, or cultural approaches for minimizing or eliminating economic damage and safety-related hazards; damage assessment; and laboratory and field studies of damaging species and their habitats to discover new approaches to control animal damage.

Alternatives

The following alternatives are proposed for evaluation in the EIS:

(1) The current control program;

(2) No action (i.e., no federal ADC program);

(3) Eradication program (planned elimination of pest wildlife populations in designated areas) and;

(4) Suppression program (planned long-term reduction of pest wildlife populations in designated areas).

Major Issues

The following are some of the major issues to be discussed in the EIS:

(1) Impacts of the alternatives on the biological environment, including target and nontarget species;

(2) Impacts of the alternatives on the physical environment, including soil, water quality, and air quality;

(3) Impacts of the alternatives on other aspects of the human environment, such as wilderness areas, domestic animals, recreation, public health and safety, the cultural environment, public attitudes, energy, and the economy.

Preparation of EIS

In order to facilitate preparation of comments, persons may wish to review the issues presented in the June, 1979, Final EIS for the United States Fish and Wildlife Service's Mammalian Predator Damage Management for Livestock Protection in the Western United States. Copies of this EIS are available for review at each ADC State Office, ADC Regional Offices, the Denver Wildlife Research Center, the National Technical Support Staff office, and the ADC Deputy Administrator's office. For information on specific locations, contact Gary D. Simmons. (See "For Further Information Contact.")

The ADC program was transferred to APHIS from the United States Fish and Wildlife Service (FWS) on December 19, 1985, by Pub. L. 99–190, 465. The June 29, 1979, FWS Final EIS on the program was adopted by APHIS on February 21, 1986. In accordance with APHIS and USDA regulations and guidelines, APHIS reviews and reevaluates each APHIS EIS every 5 years. After review of the FWS Final EIS, APHIS has decided to prepare a new programmatic EIS.

Following scoping, a draft programmatic ADC EIS will be developed. A "notice of availability" will be published in the **Federal Register** when the draft programmatic EIS has been prepared and is available for distribution.

Done in Washington, DC, this 10th day of November, 1987.

Donald Houston,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 87–26398 Filed 11–13–87; 8:45 am]

BILLING CODE 3410–34–M

Farmers Home Administration

Authority to Act as Administrator

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: This notice provides for the executive direction of the Farmers Home Administration (FmHA).

1. When the Administrator, FmHA, is absent or unable to perform the duties of the position, the Associate Administrator, FmHA, is designated to serve as Acting Administrator, FmHA.

2. When both the Administrator and the Associate Administrator are absent or unable to perform their duties, the Deputy Administators, FmHA, are designated to perform all functions assigned by law or delegated to the Administrator, FmHA, as described in 7 CFR 2.70, and to serve as Acting Administrator in the following order:

A. Deputy Administrator, Program Operations

B. Deputy Administrator, Management

3. When the Administrator, the Associate Administrator, and the Deputy Administrators are absent or unable to perform their duties, the Assistant Administrators, FmHA, are designated to perform all the functions assigned by law or delegated to the Administrator, FmHA, as described in 7 CFR 2.70, and to serve as Acting Administrator, FmHA, in the following order:

A. Assistant Administrator, Community and Business Programs

B. Assistant Administrator, Farmer Programs

C. Assistant Administrator, Housing Programs

D. Assistant Administrator, Finance Office

E. Assistant Administrator, Automated Information Systems

F. Assistant Administrator, Administration

This document supersedes any previous document designating an official of the FmHA to serve as Acting Administrator, FmHA.

EFFECTIVE DATE: November 16, 1987.

FOR FURTHER INFORMATION CONTACT: Timothy J. Ryan, Director, Personnel Division, Farmers Home Administration, USDA, Room 6900, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250, Telephone (202) 382–1056.

Dated: November 14, 1987.

Vance L. Clark

Administrator, Farmers Home Administration.

[FR Doc. 87–26397 Filed 11–13–87; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 24–81]

Withdrawal of Application for General-Purpose Foreign-Trade Zone; City of Industry, CA

The City of Industry, California, has requested withdrawal of its application

to the Foreign-Trade Zones Board for a general-purpose foreign-trade zone. The application was filed on December 22, 1981 (46 FR 63097, 12–30–81).

The withdrawal is being requested because of changed circumstances.

The request is approved, without prejudice, and Foreign-Trade Zones Board Docket No. 24–81 is closed.

Dated: November 9, 1987.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 87–26393 Filed 11–12–87; 8:45 am]

BILLING CODE 3510–DS–M

[Docket No. 30–87]

Proposed Foreign-Trade Zone; Casper, WY, Natrona County International Airport; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Natrona County International Airport Board of Trustees (NCI), requesting authority to establish a general-purpose foreign-trade zone in Natrona County, Wyoming, some 8 miles from Casper. The appliction was submitted pursuant to the provisions of the Foreign-Trade Zones (FTZ) Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on November 2, 1987. NCI is authorized to make the proposal under Wyoming State Statutes 1971, Chapter 48, Section 2, Subsection 40–11–102.

The proposal involves a 7-acre parcel with a warehousing facility at the Natrona County International Airport, 3465 Bell Avenue, Natrona County, Wyoming. The County-owned airport was recently designated a "user fee" facility by the U.S. Customs Service.

The application contains evidence of the need for zone services in the Casper area. Several firms have indicated an interest in using zone procedures for warehousing/distribution of electronic products, oil and gas production equipment, and sporting goods. Specific manufacturing approvals are not being sought at this time. Requests would be made to the Board on a case-by-case basis.

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: John J. Da Ponte, Jr. Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Donald Myhra, District Director, U.S. Customs Service, North Central Region, 600 Central Avenue, Great Falls, Montana 59401; and Colonel Steven G. West, District Engineer, U.S. Army Engineer District Omaha, Room 1612 USPO & Courthouse, Omaha, Nebraska 68102–4978.

As part of its investigation the examiners committee will hold a public hearing on December 1, 1987 beginning at 10 a.m., at the City Council Chambers, City Hall, 200 North David, Casper, Wyoming 82601.

Interested parties are invited to present their views at the hearing, including comments as to whether a Customs "user fee" airport can be considered the equivalent of a port of entry under the FTZ Act. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377–2862) by November 25. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through January 19, 1988.

A copy of the application and accompanying exhibits will be available during this time for public inspection at the Airport Manager's office and at the following locations:

Casper Area Economic Development Alliance, Suite 615, 111 West 2nd Street, Casper, Wyoming 82601

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 November 9, 1987.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 87–26389 Filed 11–13–87; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

[A–588–038]

Bicycle Speedometers From Japan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by one respondent, the Department of Commerce has conducted an administrative review of the antidumping finding on bicycle speedometers from Japan. The review covers seven manufacturers and/or exporters of this merchandise to the United States and the period November 1, 1985 through October 31, 1986. The review indicates the existence of dumping margins during the period.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 16, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–5255/3601.

SUPPLEMENTARY INFORMATION:

Background

On April 10, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 11720) the final results of its last administrative review of the antidumping finding on bicycle speedometers from Japan (37 FR 24826, November 22, 1972). A respondent requested in accordance with § 353.53a(a) of the Commerce Regulations that we conduct an administrative review. We published a notice of initiation of the antidumping duty administrative review on December 18, 1986 (51 FR 45364). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. Congress is considering legislation to convert the United States to this Harmonized System ("HS") by January 1, 1988. In view of this, we will be providing both the appropriate *Tariff Schedule of the United States Annotated* ("TSUSA") item numbers and the appropriate HS item numbers with our product descriptions on a test basis, pending Congressional approval. As with the TSUSA, the HS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

We are requesting petitioners to include the appropriate HS item number(s) as well as the TSUSA item number(s) in all new petitions filed with the Department. A reference copy of the proposed Harmonized System schedule is available for consultation at the Central Records Unit, Room B–099, U.S.

Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Additionally, all Customs offices have reference copies, and petitioners may contact the Import Specialist at their local Customs office to consult the schedule.

Imports covered by the review are shipments of bicycle speedometers, currently classifiable under TSUSA items 711.9300, 711.9820, and 732.4200 and HS item numbers 9029.20.20, 9029.90.40, and 9029.10.80.

The review covers seven manufacturers and/or exporters of Japanese bicycle speedometers to the United States and the period November 1, 1985 through October 31, 1986.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the f.o.b., packed price to either the first unrelated purchaser in the United States or an unrelated Japanese trading company for export to the United States. We made adjustments, where applicable, for foreign inland freight, brokerage, and handling charges. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Home market price was based on the packed, delivered price to unrelated purchasers. We made adjustments, where applicable, for inland freight and differences in credit and packing costs. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist for the period November 1, 1985 through October 31, 1986:

Manufacturer/exporter	Margin (percent)
Tsuyama Mfg. Co., Ltd.	3.04
Tsuyama Mfg. Co., Ltd./Asia Machinery Trading Co.	18.19
Tsuyama Mfg. Co., Ltd./Himino & Co.	13.43
Tsuyama Mfg. Co., Ltd./H. Tano & Co., Ltd.	15.18
Tsuyama Mfg. Co., Ltd./Kozaki Trading Co., Ltd.	17.56
Tsuyama Mfg. Co., Ltd./Kuwahara Co., Ltd.	17.40
Tsuyama Mfg. Co., Ltd./Yagami Corporation	17.21

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice, may request an administrative protective order and/or disclosure within 5 days of the date of publication, and may request a hearing within 8 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required for the firms listed above. For any shipments from the remaining known manufacturers and/or exporters not covered by this review, the cash deposit will continue to be at the rates published in the final results of the last administrative review for each of those firms (49 FR 24426, June 13, 1984 and 52 FR 1170, April 10, 1987).

For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after October 31, 1986, and who is unrelated to any reviewed firm or any previously reviewed firm, a cash deposit of 18.19 percent shall be required. These deposit requirements are effective for all shipments of Japanese bicycle speedometers entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Gilbert B. Kaplan,

Acting Assistant Secretary for Import Administration.

Date: November 9, 1987.

[FR Doc. 87-26390 Filed 11-13-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-086]

Spun Acrylic Yarn From Japan; Final Results of Antidumping Duty Administrative Review and Revocation in Part

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review and revocation in part.

SUMMARY: On July 31, 1986, the Department of Commerce published the preliminary results of its administrative review and tentative determination to revoke in part the antidumping duty order on spun acrylic yarn from Japan. The review covers 8 manufacturers and/or exporters of this merchandise and the period April 1, 1983 through March 31, 1986.

We gave interested parties an opportunity to comment on our preliminary results and tentative determination to revoke in part. We received comments from the petitioner, the American Yarn Spinners Association, Inc. We also determined that there were no shipments of this merchandise to the United States by the firms during the period April 1, 1985 through the date of the tentative determination to revoke in part. We advised the petitioner that there were no shipments and we provided an additional opportunity to comment. We received no additional comments. We sought additional information from the parties so as to determine whether a likelihood of dumping existed should sales to the U.S. be resumed. A comparison of weighted-average home market price information and U.S. price information received from the Japanese firms and the petitioner indicates no likelihood of future sales at less than fair value.

Based on our analysis, the final results of our review are the same as the preliminary results, and we revoke the order for this merchandise exported to the United States by Asahi Chemical Industries Co., Ltd., Japan Exlan Co., Ltd., Mitsubishi Rayon Co., Ltd., and Diafibers Co., Ltd.

EFFECTIVE DATE: November 16, 1987.

FOR FURTHER INFORMATION CONTACT: Barbara Victor or David P. Mueller, Office of Compliance International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5222/2923.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 27435) the preliminary results of its administrative review and tentative determination to revoke in part the antidumping duty order on spun acrylic yarn from Japan (45 FR 24127, April 8, 1980).

We began this review under our old regulations. After the promulgation of our new regulations, 8 manufacturers and/or exporters requested in accordance with § 353.53a(a) of the Commerce Regulations that we complete the administrative review. We have now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of spun acrylic plied yarn for machine knitting, currently classifiable under items 310.5015 and 310.5049 of the Tariff Schedules of the United States Annotated (TSUSA). The review covers 8 manufacturers and/or exporters of Japanese spun acrylic yarn to the United States and the period April 1, 1983 through March 31, 1986.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received comments from the petitioner, The American Yarn Spinners Association, Inc. ("AYSA").

Comment 1: AYSA submitted import statistics for the TSUSA categories covered by the order which shows an increase in imports for the last four years. The Department should verify all shipments to determine if they were legitimate.

Department's Position: For the four firms being revoked, the Department requested that our Tokyo office verify that there had been no shipments for four years. The Department received verification reports and supporting documents stating that there have been no shipments for the past four years. For the four remaining firms, a cash deposit of estimated antidumping duties will be required for any future shipments at the rates listed in this notice.

Comment 2: AYSA alleges that there may be possible transshipments of Japanese spun acrylic yarn throughout Canada to avoid possible payment of antidumping duties.

Department's Position: The Department notified the Customs Service of this possibility and asked Customs to monitor all shipments of spun acrylic yarn to check for possible transshipments. No reports of transshipments were reported by the Customs Service.

Comment 3: AYSA points out that the EEC follows a different procedure for revocation than that used by the United States. An applicant must have exported a reasonable quantity of the product to the EEC during the relevant period before being reviewed for revocation.

Department's Position: The Department of Commerce conducts its 751 administrative reviews in accordance with United States laws and regulations. The method used by other countries for consideration of possible revocation from an antidumping order is not dispositive in this review.

The Department requested weighted-average home market price information from the Japanese firms seeking revocation and price information for domestic sales from the petitioner covering the period April 1986 through March 1987. A comparison of these prices indicates that should these firms resume exports to the United States, there are no reasonable grounds to believe that future exports would be at less than fair value.

Final Results of Review and Revocation in Part

Based on our analysis of the comments received, the final results of review are the same as those presented in the preliminary results of review and we determine that the following margins exist:

Manufacturer/Exporter	Margin (percent)
Teijin Shoji Kaisha, Ltd	[1] 29.05
Mitsubishi Corp	[1] 20.26
Nichimen Corp	[1] 23.19
Nissho-Iwai Corp	[1] 18.33

[1] No shipments during the period.

We are satisfied that there is no likelihood of resumption of sales at less than fair value by Asahi Chemical Ind. Co., Ltd., Japan Exlan Corporation, Diafibers Co., Ltd., and Mitsubishi Rayon Co., Ltd. This partial revocation applies to all unliquidated entries of this merchandise manufactured and/or exported by Asahi, Japan Exlan, Diafibers or Mitsubishi Rayon and entered, or withdrawn from warehouse, for consumption on or after July 31, 1986, the date of our tentative determination to revoke with respect to these firms. The Department will instruct the Customs Service not to assess antidumping duties on all appropriate entries for these firms.

Further, in accordance with section 751(a)(1) of the Tariff Act, the Department shall require a cash deposit of estimated antidumping duties for the other firms listed above. For any shipments from the remaining known manufacturers and/or exporters not covered by this review, a cash deposit shall be required at the rates published in the final results of the last administrative review for each of those firms.

For any shipments of this merchandise from a new exporter, not covered by this or prior administrative reviews, whose first shipments occurred after July 31, 1986 and who is unrelated to any reviewed firm or any previously reviewed firm, a cash deposit of 29.05 percent shall be required.

These deposit requirements are effective for all shipments of Japanese spun acrylic yarn entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the next administrative review.

This administrative review, partial revocation, and notice are in accordance with section 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)) and § 353.53a and 353.54 of the Commerce Regulations (19 CFR 353.53a, 353.54).

Date: November 9, 1987.

Gilbert B. Kaplan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 87-26386 Filed 11-13-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-085]

Sugar and Syrups From Canada; Preliminary Results of Antidumping Duty Administrative Review and Intent To Revoke in Part

AGENCY: International Trade Adminstration/Import Administration, Commerce

ACTION: Notice of preliminary results of antidumping duty administrative review and intent to revoke in part.

SUMMARY: In response to a request by Lantic Sugar, Ltd., the Department of Commerce has conducted an administrative review of the antidumping duty order on sugar and syrups from Canada. The review covers one manufacturer/exporter of this merchandise to the United States and the period April 1, 1986 through February 10, 1987. The review indicates no dumping margins for the firm during the period.

As a result of the review, the Department intends to revoke the order with respect to Lantic Sugar, Ltd.

Interested parties are invited to comment on these preliminary results and intent to revoke in part.

EFFECTIVE DATE: November 16, 1987.

FOR FURTHER INFORMATION CONTACT: J. David Dirstine or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3601/5255.

SUPPLEMENTARY INFORMATION:

Background

On February 10, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 4165) a tentative determination to revoke in part the antidumping duty order on sugar and syrups from Canada (45 FR 24126, April 9, 1980). On June 5, 1987, the Department published in the **Federal Register** (52 FR 21340) the final results of its last administrative review of the antidumping order on sugar and syrups from Canada. Lantic Sugar, Ltd. requested in accordance with § 353.53a(a) of the Commerce Regulations that we conduct an administrative review. We published the notice of initiation on May 20, 1987 (52 FR 18937). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States had developed a system of tariff classification based on the international harmonized system of Customs nomenclature. Congress is considering legislation to convert the United States to this Harmonized System ("HS") by January 1988. In view of this, we will be providing both the appropriate *Tariff Schedules of the United States Annotated* ("TSUSA") item numbers and the appropriate HS item numbers with our product descriptions on a test basis, pending Congressional approval. As with the TSUSA, the HS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

We are requesting petitioners to include the appropriate HS item number(s) as well as the TSUSA item number(s) in all new petitions filed with the Department. A reference copy of the proposed Harmonized System schedule is available for consultation at the Central Records Unit, Room B-099, U.S. U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Additionally, all Customs offices have reference copies, and petitioners may contact the Import Specialist at their local Customs office to consult the schedule.

Imports covered by the review are shipments of Canadian sugar syrups produced from sugar cane and sugar beets. The sugar is refined into granulated or powdered sugar, icing, or liquid sugar. These imports are currently classifiable under TSUSA items 155.2025, 155.2045, and 155, 3000, and under HS item numbers 1701.11.0025, 1701.11.0045, and 1702.90.3000.

The review covers one manufacturer/exporter of Canadian sugar and syrups and the period April 1, 1986 through February 10, 1987.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act, since all sales were made to unrelated purchasers in the United States prior to importation. Purchase price was based on the packed f.o.b. duty-paid plant price to unrelated purchasers in the United States. Where applicable, we made adjustments for U.S. duty and brokerage charges. Also, where applicable, we added Canadian duties paid at the time of importation into Canada of the raw material used to produce the sugar and syrups because these duties were rebated when the sugar and syrups were exported to the United States. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price as defined in section 773 of the Tariff Act since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis of comparison. Home market price was based on the packed, f.o.b. or delivered price with adjustments, where applicable, for inland freight. As commissions were paid to unrelated parties in both the U.S. and the home market, we made an adjustment for higher commissions paid in the U.S. market. No other adjustments were claimed or allowed.

Preliminary Results of the Review and Intent To Revoke in Part

As a result of our comparison of United States price to foreign market value, we preliminarily determine that no dumping margins exist for Lantic Sugar, Ltd. for the period April 1, 1986 through February 10, 1987.

As a result of our review we intend to revoke the order with respect to this merchandise manufactured and exported by Lantic Sugar, Ltd. Lantic had no margins for the period April 1, 1982 through March 31, 1986 and made all sales at not less than fair value during the period April 1, 1986 through February 10, 1987, the date of our tentative determination to revoke in part with regard to Lantic.

As provided for in § 353.54(e) of the Commerce Regulations, Lantic Sugar, Ltd. has agreed in writing to an immediate suspension of liquidation and reinstatement in the order under circumstances as specified in the written agreement. If the order is revoked with respect to Lantic Sugar Ltd., it shall apply to unliquidated entries of Canadian sugar and syrups manufactured and exported to the United States by Lantic Sugar, Ltd. and entered, or withdrawn from warehouse, for consumption on or after Februry 10, 1987.

Interested parties may submit written comments on these preliminary results and intent to revoke in part within 30 days of the date of publication of this notice, may request disclosure within 5 days of the date of publication, and may request a hearing within 8 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of issues raised in any such comments or hearing.

The Department shall instruct the Customs Service not to assess antidumping duties on all appropriate entries.

For any future shipments from the remaining known manufacturers and/or exporters not covered in this review, a cash deposit shall be required at the rates published in the final results of the last administrative review for each of those firms.

For any future entries of this merchandise from a new exporter, not covered in this or prior administrative reviews, whose first shipments occurred after February 10, 1987, and who is unrelated to any reviewed firm, or any previously reviewed firm, no cash deposit shall be required. These deposit requirements are effective for all shipments of Canadian sugar and syrups entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review, intent to revoke in part, and notice are in

accordance with sections 751 (a)(1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1), (c)) and §§ 353.53a and 353.54 of the Commerce Regulations (19 CFR 353.53a, 353.54).

Dated: November 9, 1987.

Gilbert B. Kaplan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 87-26385 Filed 11-13-87; 8:45 am]

BILLING CODE 3510-DS-M

Short-Supply Review on Certain Hot-Dipped Tinplate; Request for Comments

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short-supply determination under Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products with respect to various sizes of hot-dipped tinplate used in the manufacture of concentrated lemon juice cans.

DATE: Comments must be submitted no later than November 27, 1987.

ADDRESS: Send all comments to Nicholas C. Tolerico, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230, (202) 377-0159.

SUPPLEMENTARY INFORMATION: Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products provides that if the U.S. "* * * determines that because of abnormal supply or demand factors, the United States steel industry will be unable to meet demand in the USA for a particular category or sub-category (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such category or sub-category * * *."

We have received a short-supply request for hot-dipped tinplate, bright finish, conforming to ASTM A-623, meeting the following specifications:

(a) Dimensions: 0.030 millimeters in thickness, and ranging from 680 to 865 millimeters in length, and from 704 to 991 millimeters in width.

(b) Temper Types: 4 and 5.

(c) Tin Coating Weight: 1.5-2.0 lbs/BB.

(d) Base Steel Thickness: 107 lbs (.01177 +/-5%).

This product is used in the production of concentrated lemon juice cans.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than November 27, 1987. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly so label the business proprietary portion of the submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Room B-099, Import Administration, U.S. Department of Commerce, at the above address.

Dated: November 9, 1987.

Gilbert B. Kaplan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 87-26387 Filed 11-13-87; 8:45 am]

BILLING CODE 3510-DS-M

Short-Supply Review on Certain Steel Plate; Request for Comments

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short-supply determination under Article 8 of the U.S.-EC Arrangement on Certain Steel Products and Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products, with respect to certain manganese steel plate.

DATE: Comments must be submitted on or before November 27, 1987.

ADDRESS: Send all comments to Nicholas C. Tolerico, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230, (202) 377-0159.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S.-EC Arrangement on Certain Steel Products and Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products provides that if the U.S. determines that because of abnormal supply or demand factors, the U.S. steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product or products.

We have received a short-supply request for certain steel plate, 11-14 percent manganese, fully austenitized, ranging from 3/16 to 2½ inches in thickness, 48 to 120 inches in width, 96 to 360 inches in length, which is used in applications where heavy impact and friction are involved.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than November 27, 1987. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly identify the business proprietary portion of the submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Room B-099, Import Administration, U.S. Department of Commerce at the above address.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

November 6, 1987.

[FR Doc. 87-26388 Filed 11-13-87; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1987; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1987 commodities to be produced by and services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: December 16, 1987.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On May 22, 1987, August 10, August 28, 1987 and September 25, 1987 the Committee for Purchase for the Blind and Other Severely Handicapped published notices (52 FR 19376, 29564, 32582, and 36084) of propoosed additions to Procurement List 1987, November 3, 1986 (51 FR 39945).

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 US.C. 46–48c, 85 Stat. 77 and 41 CFR 51–2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractors for the commodity listed.

c. The action will result in authorizing small entities to produce the commodities and provide services procured by the Government.

Accordingly, the following commodities and services are hereby added to Procurement List 1987:

Commodities

Side Rack, Vehicle, 2510–00–535–6797
Flashlight, 6230–00–781–3671

Services

Commissary Shelf Stocking Branch Commissary Store, Naval Support activity, New Orleans, Louisiana
Janitorial Service, Federal Building, U.S. Post Office and Courthouse, 211 West Ferguson Avenue, Tyler, Texas

C.W. Fletcher,

Executive Director.

[FR Doc. 87–26360 Filed 11–13–87; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1987; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1987 commodities to be produced by workshops for the blind or other severely handicapped.

Comments: *Must Be Received on or Before:* December 16, 1987.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77 and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities to Procurement List 1987, November 3, 1987 (51 FR 39945).

Commodities

Detergent, Laundry, 7930–01–045–3515, 7930–01–045–3517
Detergent, General Purpose, 7930–00–531–9715, 7930–00–531–9716
Three-sided Fiberboard Flats Trays, P.S. Item No. D3915

C.W. Fletcher,

Executive Director.

[FR Doc. 87–26361 Filed 11–13–87; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Technological and Operational Surprise; Advisory Committee Meetings

SUMMARY: The Defense Science Board Task Force on Technological and Operational Surprise in the U.S.-Soviet Military Competition will meet in closed session on January 5–6, 1988 at the DIA Analysis Center, Bolling AFB, Washington, DC.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will evaluate the potential for technological and operational surprise in the U.S.-Soviet military competition.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly these meetings will be closed to the public.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

November 10, 1987.

[FR Doc. 87–26400 Filed 11–13–87; 8:45 am]

BILLING CODE 3810–01–M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Ventura Harbor Feasibility Study, Ventura County, CA

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY:

1. *Proposed Action.* The U.S. Army Corps of Engineers and the Ventura Port District are conducting a Feasibility Study to develop a plan to reduce shoaling and maintenance dredging and to improve navigational safety in Ventura Harbor. The tentatively selected plan involves the construction of a second detached breakwater and modifications to the configuration of the sand traps. The proposed breakwater would begin approximately 500 feet downcoast of the existing detached breakwater and would extend approximately 800 feet downcast.

2. *Alternatives.* Two alternatives to the proposed action were determined to be economically justified in the reconnaissance phase of the study. One alternative would involve the construction of a spear groin attached to the upcoast end of the south jetty and parallel to the entrance channel, enlargement of the sand traps, and creation of an additional sand trap. The other alternative is nonstructural and would involve only expansion of the sand traps. The "No Action" alternative will also be evaluated in the DEIS. Under the No Action alternative, the entrance channel and sand traps would continue to be dredged annually under an existing maintenance dredging program.

3. *Scoping:* A public meeting/scoping meeting will be held on December 15, 1987, to discuss the issues and to obtain public comment. Affected Federal, state and local agencies, and interested private organizations and individuals will be invited to participate in the scoping process. Significant issues to be analyzed in the DEIS include, but may not be limited to coastal processes, water quality, biological resources, cultural resources, and recreation.

4. *DEIS Availability:* The DEIS is anticipated to be available for public review in September 1988.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Michael Ellis, Project Manager, Coastal Resources Branch, U.S. Army Corps of Engineers, P.O. Box 2711, Los Angeles, California 90053–2315, Telephone (213) 894–3061; FTS 798–3061.

Date: November 6, 1987.

Tadahiko Ono,

Colonel, Corps of Engineers District Engineer.

[FR Doc. 87–26372 Filed 11–13–87; 8:45 am]

BILLING CODE 3710-KF-M

Department of the Navy

National Environmental Policy Act; Record of Decision To Proceed With the Development of the Guayule Natural Rubber Demonstration Program

Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 and the Council on Environmental Quality Regulations (40 CFR Part 1500), the U.S. Navy is making the decision to proceed with the development of the Guayule Natural Rubber Demonstration Program.

This demonstration program is being performed on the Gila River Indian Community Reservation, southeast of Phoenix, AZ. The potential impacts evaluated include land use, air quality, water consumption and pollution, noise, ecological/endangered species, and cultural resources.

Two alternative processing scenarios and their impacts were reviewed. Alternative 1 includes the water flotation rubber extraction process located at the Pima-Chandler Industrial Park Complex. The preferred alternative utilizes the simultaneous extraction rubber fractionation (SERF) process located at the Santan Industrial Park Complex. The SERF process is an efficient method of rubber extraction and uses less water than alternative 1. The Santan site is favorable because of the close proximity to the agricultural operations.

Although no significant short or long term impacts were identified as a result of the proposed actions, the solar evaporation pond which will receive liquid processing waste requires monitoring. Since the processing facility is a research and development operation, the exact composition of the solvent component present in the waste is not known and is expected to vary over the course of the nine month operation. The composition of the solvent component of the effluent, and in the solid waste (bagasse), will range from 48% pentane/52% acetone to 0.48% pentane/99.52% acetone. Wastewater will be tested for ignitibility. Any solid waste that collects in the pond will be tested to determine whether or not it would be classified as hazardous and will be disposed of accordingly.

The solar evaporation pond will also be monitored for wildlife use. The entire processing operation is fenced, so birds are considered the only potential problem. A qualified bird watcher has been identified to observe the pond on a regular basis, specifically, morning and evening, five days a week during the first two months of operation and during the months of bird migrations. During the remaining months of operations, observations will be made three times a week. In the event that local birds and/or migratory species are attracted to the pond, lines will be installed across the pond. The spacing and pattern of the lines will be determined according to the size of the birds.

Date: November 10, 1987.

Jane M. Virga,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 878–26318 Filed 11–13–87; 8:45 am]

BILLING CODE 3810-AE-M

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 will meet December 2–3, 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 maritime issues as they impact national security policy and requirements. The entire agenda for the meeting will consist of discussions of key issues related to national security policy, 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 Ann Lynn Cline, Special Assistant to the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 928, Alexandria, Virginia 22302–0268. Phone (703 756–1205.

Date: November 10, 1987.

Jane M. Virga,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 87–26316 Filed 11–13–87; 8:45 am]

BILLING CODE 3810-AE-M

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 Mine Warfare Capabilities Task Force will meet December 10–11, 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 current and projected U.S. and Allied Mine Warfare capabilities and potential U.S. vulnerabilities in the broad context of maritime operations 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 AnnLynn Cline, Special Assistant to the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302–0268. Phone (703) 756–1205.

Dated: November 10, 1987.

Jane M. Virga,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 87-26317 Filed 11-13-87; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Energy Information Administration

Inventory of Current DOE Reporting and Record-keeping Requirements

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of inventory of current Department of Energy energy information collections, including reporting and record-keeping requirements.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) hereby gives notice to respondents, and other interested parties, of an inventory of current energy information collections (including reporting and record-keeping requirements) which are approved by the Office of Management and Budget (OMB). Management and procurement collections are the responsibility of DOE's Office of Management and Administration and are not included in these notices.

The listing that follows this notice includes energy information collections that have OMB approval, as of October 1, 1987. Part I lists, for each information collection utilizing a structured form, the current DOE control or form number, the title of the requirement, the OMB control number, and the OMB approval expiration date. Part II lists those information collections (including reporting or record-keeping requirements) not utilizing structured forms and the appropriate Code of Federal Regulations citations.

FOR FURTHER INFORMATION CONTACT: Etta Harris (EI-73) Energy Information Administration, Mail Stop 1H-023, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-2165.

Information on the availability of single, blank information copies of those collections utilizing structured forms can be obtaioned by contacting the National Energy Information Center, EI-231, Forrestal Building, U.S. Department of Energy, Washington, DC 20585, (202) 586-880.

SUPPLEMENTARY INFORMATION: In an effort to keep respondents, users, and other interested parties informed concerning the status of these information collections, which are subject to clearance by the Office of Management and Budget under the Paperwork Reduction Act, the Energy Information Administration will publish a Notice of Change to the Inventory in the **Federal Register** on a quarterly basis throughout the current fiscal year.

Statutory Authority: Sec. 5(a), 5(b), 13(b), and 52, Pub. L. 93-275, Federal Energy Administration Act of 1974, (15 U.S.C. 764(a), 764(b), 772(b), and 790(a)).

Issued in Washington, DC, November 6, 1987.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

PART I.—DOE ACTIVE INFORMATION COLLECTIONS

[Utilizing Structured Forms]

DOE Number	Title	OMB Control No.	Expiration date.
Civilian Radioactive Waste Management:			
NWPA-83OR-G	Standard Contract for Disposal of Spent Nuclear Fuel and/or High Level Radioactive Waste—Quarterly Report—Standard Remittance Advice—Annex A.	19010260	12/31/89
RW-859	Nuclear Fuel Data	19010287	01/31/89
Conservation and Renewable Energy:			
CE-63A/B	Annual Solar Thermal Collector Manufacturers Survey and Annual Photovoltaic Module Manufacturers Survey	19050172	12/31/89
Economic Regulatory Administration:			
ERA-166	Public Utility Regulatory Policies Act (PURPA) Annual Report on Electric and Gas Utilities	19030060	06/30/88
ERA-424D	Tertiary Project Annual Prepaid Expenses Report Form	19030069	03/31/90
ERA-781R	Annual Report of International Electric Export/Import Data	19030080	05/31/88
Energy Information Administration:			
EIA-1	Weekly Coal Monitoring Report—General Industries (Standby Form)	19050167	03/31/88
EIA-3	Quarterly Coal Consumption Report—Manufacturing Plants	19050167	03/31/88
EIA-4	Weekly Coal Monitoring Report—Coke Plants (Standby Form)	19050167	03/31/88
EIA-5	Coke Plant Report—Quarterly	19050167	03/31/88
EIA-6	Coal Distribution Report	19050167	03/31/88
EIA-7A	Coal Production Report	19050167	03/31/88
EIA-7A (SUPP)	Coal Production Report (Supplement)	19050167	03/31/88
EIA-14	Refiners' Monthly Cost Report	19050174	09/30/90
EIA-20	Weekly Coal Monitoring Report—Coal-Burning Electric Utilities (Standby Form)	19050167	03/31/88
EIA-23	Annual Survey of Domestic Oil and Gas Reserves	19050057	12/31/88
EIA-23P	Oil and Gas Well Operator List Update Report	19050057	12/31/88
EIA-28	Financial Reporting System	19050149	12/31/87
EIA-64A	Annual Report of the Origin of Natural Gas Liquids Production	19050057	12/31/88
EIA-97	Boiler Order Report	19050167	03/31/88
EIA-176	Annual Report of Natural and Supplemental Gas Supply and Disposition	19050147	12/31/87
EIA-182	Domestic Crude Oil First Purchase Report	19050174	09/30/90
EIA-191	Underground Natural Gas Storage Report	19050026	12/31/87
EIA-213	Typical Net Monthly Bills	19050129	12/31/89
EIA-254	Semiannual Report on Status of Reactor Construction	19050160	03/31/88
EIA-412	Annual Report of Publicly Owned Electric Utilities	19050129	12/31/89
EIA-457A	Residential Energy Consumption Survey—Housing Unit Record Sheet	19050092	05/31/90
EIA-457B	Residential Energy Consumption Survey—Household Questionnaire	19050092	05/31/90
EIA-457C	Residential Energy Consumption Survey—Rental Agents	19050092	05/31/90
EIA-457D	Residential Energy Consumption Survey—Liquefied Petroleum Gas Suppliers	19050092	05/31/90
EIA-457E	Residential Energy Consumption Survey—Electric Utilities	19050092	05/31/90
EIA-457F	Residual Energy Consumption Survey—Natural Gas Suppliers	19050092	5/31/90
EIA-457G	Residential Energy Consumption Survey—Fuel Oil Suppliers	19050092	05/31/90
EIA-627	Annual Quantity and Value of Natural Gas Report	19050122	12/31/87
EIA-714	Annual Electric Power System Report	19050161	12/31/89
EIA-759	Monthly Power Plant Report	19050129	12/31/89
EIA-782A	Monthly Petroleum Product Sales Report	19050174	09/30/90
EIA-782B	Reseller/Retailer's Monthly Petroleum Product Sales Report	19050174	09/30/90
EIA-782C	Monthly Report of Petroleum Products Sold into States for Consumption	19050174	09/30/90
EIA-800	Weekly Refinery Report	19050165	01/31/89
EIA-801	Weekly Bulk Terminal Report	19050165	01/31/89
EIA-802	Weekly Product Pipeline Report	19050165	01/31/89

PART I.—DOE ACTIVE INFORMATION COLLECTIONS—Continued

[Utilizing Structured Forms]

DOE Number	Title	OMB Control No.	Expiration date
EIA-803	Weekly Crude Oil Stocks Report	19050165	01/31/89
EIA-804	Weekly Imports Report	19050165	01/31/89
EIA-806	Weekly Crude Watch Report	19050165	01/31/89
EIA-810	Monthly Refinery Report	19050165	01/31/89
EIA-811	Monthly Bulk Terminal Report	19050165	01/31/89
EIA-812	Monthly Product Pipeline Report	19050165	01/31/89
EIA-813	Monthly Crude Oil Report	19050165	01/31/89
EIA-814	Monthly Imports Report	19050165	01/31/89
EIA-816	Monthly Natural Gas Liquids Report	19050165	01/31/89
EIA-817	Monthly Tanker and Barge Movement Report	19050165	01/31/89
EIA-818	International Energy Agency Imports/Stocks-at-Sea Report	19050165	01/31/89
EIA-820	Annual Refinery Report	19050165	01/31/89
EIA-821	Annual Fuel Oil and Kerosene Sales Report	19050174	09/30/90
EIA-825	Petroleum Facility Operator Identification Survey	19050165	01/31/89
EIA-826	Monthly Electric Utility Sales and Revenue with State Distributions	19050129	12/31/89
EIA-846(F)	Manufacturing Energy Consumption Survey (Consumption and Related)	19050169	03/31/89
EIA-846(S)	Manufacturing Energy Consumption Survey (Part II, Fuel Switching Capability)	19050169	03/31/89
EIA-851	Domestic Uranium Mining Production Report	19050160	03/31/88
EIA-856	Monthly Foreign Crude Oil Acquisition Report	19050174	09/30/88
EIA-857	DOE Monthly Report of Natural Gas Purchases and Deliveries to Consumers	19050157	12/31/87
EIA-858	Uranium Industry Annual Survey	19050160	03/31/88
EIA-860	Annual Electric Generator Report	19050129	12/31/89
EIA-861	Annual Electric Utility Report	19050129	12/31/89
EIA-863	Petroleum Product Sales Identification Survey	19050174	09/30/90
EIA-871A/G	Nonresidential Buildings Energy Consumption Survey	19050145	09/30/89
EIA-876A/C	Residential Transportation Energy Consumption Survey	19050068	09/30/90
Environment, Safety and Health:			
EIA-767(2)	Steam Electric Plant Operation and Design Report	19010267	12/31/89
Federal Energy Regulatory Commission:			
EIA-194	Monthly Alternate Fuel/Incremental Price Monitoring Report	19020142	04/30/88
EIA-714(1)	Annual Electric Power System Report	19020140	03/31/88
EIA-767(1)	Steam-Electric Plant Operation and Design Report	19020034	12/31/89
FERC-1	Annual Report of Major Electric Utilities, Licensees, and Others	19020021	09/30/90
FERC-1-F	Annual Report of Nonmajor Public Utilities and Licensees	19020029	09/30/90
FERC-2	Annual Report of Major Natural Gas Companies	19020028	09/30/90
FERC-2A	Annual Report of Nonmajor Natural Gas Companies	19020030	09/30/90
FERC-6	Annual Report of Oil Pipeline Companies	19020022	09/30/90
FERC-8	Underground Gas Storage Report	19020026	12/31/88
FERC-11	Natural Gas Pipeline Company Monthly Statement	19020032	06/30/90
FERC-15	Interstate Pipeline's Annual Report of Gas Supply	19020037	08/31/90
FERC-16	Report of Gas Supply and Requirements	19020025	12/31/88
FERC-73	Service Life Data	19020019	09/30/89
FERC-80	Licensed Hydropower Development Recreation Report	19020106	11/30/89
FERC-121	Application for Maximum Lawful Price Under the Natural Gas Policy Act of 1978	19020038	11/30/87
FERC-423	Monthly Report of Cost and Quality of Fuels for Electric Plants	19020024	12/31/87
FERC-561	Annual Report of Interlocking Directorates	19020099	04/30/89
FERC-580	General Interrogatory On Fuel and Energy Purchase Practices	19020137	03/31/88
FERC-581	Management and Procurement Reporting and Recordkeeping Requirements	19020130	02/28/90
FERC-593	Natural Gas Contract Summary Information	19020149	11/07/87
FPC-14	Annual Report for Importers and Exporters of Natural Gas	19020027	12/31/88
ICC-ACV-1	Statement of Property Changes Other Than Land and Rights-Of-Way Pipeline Carriers	19020011	12/31/87
ICC-ACV-2	Summary of Land and Rights-Of-Way Property Changes—Pipeline Carriers	19020018	12/31/87
ICC-ACV-3	Summary of Changes In Original Cost and Total Original Cost At End Of Period—Pipeline Carriers	19020010	12/31/87
ICC-ACV-4	Summary of Cost Reproduction New and Reproduction of New Less Depreciation—Pipeline Carriers	19020009	12/31/87
ICC-ACV-5	Inventory of Property Other Than Land and Rights-Of-Way	19020015	12/31/87
ICC-ACV-6	Inventory of Land and Rights-Of-Way	19020016	12/31/87
ICC-ACV-7	Summary of Original Cost of Inventory	19020017	12/31/87
ICC-ACV-8	Cost Data for Equipment and Tanks	19020014	12/31/87
ICC-ACV-9	Cost Data for Pipeline Construction	19020013	12/31/87
Fossil Energy:			
FE-748	Enhanced Oil Recovery Annual Report	19010291	03/31/89
International Affairs and Energy Emergencies:			
IE-400	Survey of Surplus Natural Gas Supplies	19010289	12/31/87
IE-411	Coordinated Regional Bulk Power Supply Program Report	19020286	07/31/90

[FR Doc. 87-26355 Filed 11-13-87; 8:45 am]
BILLING CODE 6450-10-M

Federal Energy Regulatory Commission

[Project No. 6015-015 et al.]

Hydroelectric Applications, (Charles D. Howard et al.) Applications Filed with the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

a. *Type of Application:* Transfer of License.

b. *Project No.:* 6015-015.

c. *Date Filed:* September 17, 1987.

d. *Applicant:* Charles D. Howard.

e. *Name of Project:* Rock Creek No. 2.

f. *Location:* On Rock Creek in Twin Falls County, Idaho.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* McNeill Watkins II, Bishop, Cook, Purcell & Reynolds, 1200 Seventeenth Street NW., Washington, DC 20036, (202) 857-9885.

i. *FERC Contact:* James Hunter, (202) 376-9814.

j. *Comment Date:* December 21, 1987.

k. *Description of Project:* On August 29, 1986, a major license was issued to Charles D. Howard (licensee) for the construction, operation, and maintenance of the Rock Creek No. 2 Project No. 6015. It is proposed to transfer the license to Rock Creek Hydropower, Inc. and Bonneville Pacific Corporation (transferees). The purpose of this proposed license transfer is to

facilitate the financing, construction, and operation of the licensed project.

The licensee certifies that he has fully complied with the terms and conditions of the license. The transferees accept all the terms and conditions of the license and agree to be bound thereby to the same extent as though they were the original licensees.

l. This notice also consists of the following standard paragraphs: B and C.

2 a. *Type of Application:* Surrender of License.

b. *Project No.:* 6040–004.

c. *Date Filed:* September 23, 1987.

d. *Applicant:* Placer County Water Agency.

e. *Name of Project:* Gold Run Pipe Hydroelectric Project.

f. *Location:* On Lower Boardman Canal, near the towns of Monte Vista and Gold Run, in Placer County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Edward J. Schnabel, General Manager Placer County Water Agency, P.O. Box 6570, Auburn, CA 95604.

i. *FERC Contact:* Ahmad Mushtaq, (202) 376–1900.

j. *Comment Date:* December 21, 1987.

k. *Description of the Proposed Surrender:* The project would have utilized the existing Lower Boardman Canal and would have consisted of: (1) An intake structure at elevation 3,320 feet m.s.l.; (2) a 30-inch-diameter, 1,700-foot-long penstock; (3) a powerhouse containing two generating units with a total installed capacity of 98 kW; (4) a 1,300-foot-long transmission line interconnecting with an existing Pacific Gas and Electric Company transmission line; and (5) a 20-foot-long tailrace feeding into the existing 30-inch-diameter Gold Run pipeline. The Licensee states that the project is not economically feasible at this time.

l. This notice also consists of the following standard paragraphs: B, C and D2.

3 a. *type of Application:* Surrender of Licensee.

b *Project No.:* 6049–004.

c. *Date Filed:* September 23, 1987.

d. *Applicant:* Placer County Water Agency.

e. *Name of Project:* Hayford Pipe Water Power Project.

f. *Location:* On Lower Boardman Canal, near the town of Pinecroft in Placer County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Edward J. Schnabel, General Manager, Placer County Water Agency, P.O. Box 6570, Auburn, CA 95604.

i. *FERC Contact:* Ahmad Mushtaq, (202) 376–1900.

j. *Comment Date:* December 21, 1987.

k. *Description of the Proposed Surrender:* The project would have utilized the existing Lower Boardman Canal and would have consisted of: (1) An intake structure at elevation 2,424 feet m.s.l.; (2) a 30-inch-diameter, 2,740-foot-long penstock; (3) a powerhouse containing two generating units with a total installed capacity of 112 kW; (4) a 100-foot-long tarnsmission line interconnecting with an existing Pacific Gas and Electric Company transmission line; and (5) a 20-foot-long tailrace feeding into the Lower Boardman Canal system. The Licensee states that the project is not economically feasible at this time.

l. This notice also consists of the following standard paragraphs: B, C and D2.

4 a. *Type of Application:* Major License (over 5 MW).

b. *Project No.:* 8761–003.

c. *Date Filed:* August 3, 1987.

d. *Applicant:* PRODEK, Inc.

e. *Name of Project:* Oologah Dam.

f. *Location:* Verdigris River, Rogers County, Oklahoma.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Applicant Contact: Flake H. Wells, III, P.E., PRODEK, Inc., 2431 E. 61st Street, Suite 318, Tulsa, OK 741–7749.

i. *FERC Contact:* Dean Wight, (202) 376–9821.

j. *Comment Date:* January 11, 1988.

k. *Description of Project:* The proposed project would use the existing Oologah Dam and Reservoir, owned and operated by the U.S. Army Corps of Engineers, Tulsa District, P.O. Box 61, Tulsa, OK 74121–0061, and would consist of (1) a proposed 17.5-foot-diameter steel penstock approximately 420 feet long, to be installed in the existing northern outlet works conduit; (2) a proposed reinforced concrete powerhouse 92 feet long and 63 feet wide housing two proposed turbine-generators of 8.75 MW capacity each; (3) two proposed transmission lines: one 700-foot-long, 4.16–kV underground line, and one 138–kV, one-mile-long overhead line; and (4) appurtenant facilities. The estimated annual energy production is 58 GWh. Project power would be sold. The net hydraulic head is 68 feet. This application was filed during the term of applicant's preliminary permit.

l. This notice also consist of the following standard paragraphs: A3, A9, B, and C.

5 a. *Type of Application:* Exemption from licensing.

b. *Project No.:* 8895–001.

c. *Date Filed:* December 2, 1986.

d. *Applicant:* Warren A. Harris III.

e. *Name of Project:* Tannery Pond.

f. *Location:* On the Millers River in the Town of Winchendon, Worchester County, Massachusetts.

g. *Filed Pursuant to:* Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 as amended.

h. Contact Person: Warren A. Harris III, P.O. Box 46, Winchendon, MA 01475, (617) 297–1500.

i. *FERC Contact:* Bob Bell on (202) 376–5706.

j. *Comment Date:* December 21, 1987.

k. *Description of Project:* The proposed project would consist of: (1) An existing 248-foot-long, 10-foot-high concrete dam; (2) an impoundment having a surface area of 9 acres with a storage capacity of 51 acre-feet and a normal water surface elevation of 939.45 feet NGVD; (3) a powerhouse containing two generating units having a total installed capacity of 180 KW; (4) a 700-foot-long discharge channel; (5) a 425-foot-long tailrace; (6) a proposed underground 125-foot-long 1.2–kV transmission line; and (7) appurtenant facilities. The applicant estimates the average annual generation would be 650,000 kWh. All energy generated would be sold to a local utility.

l. This notice also consist of the following standard paragraphs: A3, A9, B, C, and D3A.

6 a. *Type of Application:* Minor License.

b. *Project No.:* 10453–000.

c. *Date Filed:* August 6, 1987.

d. *Applicant:* Hydroelectric Development, Inc.

e. *Name of Project:* Grandby.

f. *Location:* At the Grandby Dam on Colorado River in Grand County, Colorado.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 971(a)–825(r).

h. Applicant Contact: Paul Nolan, HDI, 6219 North 19th Street, Arlington, VA 22205, (703) 534–5509.

i. *FERC Contact:* Hector M. Perez, (202) 376–1669.

j. *Comment Date:* January 11, 1988.

k. *Description of Project:* The proposed project would utilize Grandy Dam and Reservoir and would consist of: (1) A 5.5-foot-diameter, 535-foot-long steel-lined penstock within the existing outlet tunnel, from the existing gate chamber (sta. 9+65.9) to the tunnel outlet; (2) a 51-foot-long by 29-foot-wide concrete powerhouse containing 4 generating units with a total installed capacity of 1,500 kW; (3) a switchyard; (4) a 900-foot-long, 24.9–kV transmission line; and (5) other appurtenances. The project facilities would be located within the U.S. Forest Service's

Arapahoe National Recreation Area. The Grandby Dam and Reservoir are owned by the United States and are administered by the Bureau of Land Management. The project would have an average annual generation of 4,200,000 kWh to be sold to the Western Area Power Administration.

l. This notice also consist of the following standard paragraphs: A3, A9, B, C, and D1.

7 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10472–000.

c. *Date Filed:* September 11, 1987.

d. *Applicant:* Hanalei Power Company.

e. *Name of Project:* Hanalei River Project.

f. *Location:* On the Hanalei River, near Princeville, in Kauai County, Hawaii.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:*

Mr. David B. Van Otten, Hanalei Power Company, 699 East South Temple, Suite 220, Salt Lake City, UT 84102, (801) 363–6111

Mr. Clark M. Mower, Bingham Engineering, 100 Lindbergh Plaza 2, 5160 Wiley Post Way, Salt Lake City, UT 84116, (801) 532–2520

i. *FERC Contact:* Mr. Don Wilt, (202) 376–9807.

j. *Comment Date:* January 11, 1988.

k. *Description of Project:* The proposed project would consist of: (1) A 10-foot-high, 70-foot-long concrete diversion dam across the Hanalei River; (2) a 23,325-foot-long penstock varying from 54-inch-diameter to 72-inch-diameter; (3) a powerhouse containing 2 turbine-generator units with a total rated capacity of 8,000 kW, operating under a head of 535 feet and producing an estimated annual generation of 29.5 million KWh; (4) a 300-foot-long tailrace returning flows to Hanalei River; and (5) a 0.6-mile-long, 69-kV transmission line connecting the project to a new substation which will interconnect to an existing Kauai Electric Company line.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

m. The applicant estimates the cost of the work to be performed under the preliminary permit would be $400,000.

8 a. *Type of Application:* Preliminiary Permit.

b. *Project No.:* 10479–000.

c. *Date Filed:* September 22, 1987.

d. *Applicant:* Island Power Company, Inc.

e. *Name of Project:* South F k Wailua River Project.

f. *Location:* On the South Fork Wailua River, near Wailua, in Kauai County, Hawaii.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Jeff Burt, Island Power Company, Inc., 100 Lindbergh Plaza 2, 5160 Wiley Post Way, Salt Lake City, UT 84116, (801) 532–2520.

i. *FERC Contact:* Mr. Don Wilt, (202) 376–9807.

j. *Comment Date:* January 11, 1988.

k. *Description of Project:* The proposed project would consist of: (1) A 23-foot-high, 400-foot-long, concrete diversion dam across the South Fork Wailua River; (2) a 4,950-foot-long penstock varying from 84-inch-diameter to 96-inch-diameter; (3) a powerhouse containing 2 turbine-generator units with a total rated capacity of 6,600 kW, operating under a head of 265 feet and producing an estimated annual generation of 17.5 million KWh; (4) a 200-foot-long tailrace returning flows to South Fork Wailua River; and (5) a 2.2-mile-long, 12-kV transmission line connecting the project to Lydgate Substation which will interconnect to an existing Kauai Electric Company line.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

m. The applicant estimates the cost of the work to be performed under the preliminary permit would be $140,000.

9 a. *Type of Application:* Conduit Exemption.

b. *Project No.:* 10484–000.

c. *Date Filed:* September 28, 1987.

d. *Applicant:* Monte Vista Water District.

e. *Name of Project:* Monte Vista Hydroelectric Project.

f. *Location:* Water transmission pipeline at the Monte Vista Water District Plant R–4 in San Bernardino County, Montclair, California.

g. *Filed Pursuant to:* Section 30 of the Federal Power Act, 16 U.S.C. 823(a).

h. *Applicant Contact:*

Mr. Robert Thompson, General Manager, Monte Vista Water District, 10575 Central Avenue, Montclair, CA 91763

Mr. Emmett F. Lowry, Emmett F. Lowry Engineers, Inc., 38201 Via Del Largo, Murrieta, CA 92362

i. *FERC Contact:* Mr. Don Wilt, (202) 376–9807.

j. *Comment Date:* December 21, 1987.

k. *Description of Project:* The proposed project would be located on lands owned by the applicant and would utilize the flows of an existing 24-inch pipeline on the applicants water distribution system. The project would consist of a powerhouse containing three turbine generating units with a total rated capacity of 850 kW. The applicant estimates that the average annual energy output would be 3,202,000 kWh.

l. *Purpose of Project:* Project power would be sold to local municipalities or the local power company.

m. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3b.

10 a. *Type of Filing:* Petition Alleging Commitment of Substantial Monetary Resources.

b. *Project No.:* 7853–003.

c. *Date Filed:* September 29, 1987.

d. *Applicant:* Beaver Creek Hydro, Inc.

e. *Name of Project:* Beaver Creek Hydroelectric Project.

f. *Location:* In Clearwater National Forest, on Beaver Creek, in Clearwater County, Idaho. Township 40N and Range 6E.

g. *Filed Pursuant to:* Electric Consumers Protection Act (ECPA), Pub. L. No. 99–495, Section 8(b) (1986).

h. *Applicant Contact:* Mr. James R. Morris, Vice President, Beaver Creek Hydro, Inc., P.O. Box 1016, Lewiston, ID 83501, (208) 799–1352.

i. *Comment Date:* January 11, 1988.

j. *FERC Contact:* Thomas Dean, (202) 376–9275.

k. *Description of Project:* The applicant has filed a Petition Alleging Commitment of Substantial Monetary Resources (Petition) for the Beaver Creek Hydroelectric Project, which would consist of a new 8-foot-high diversion structure, a 36,200-foot-long penstock, a powerhouse with a total capacity of 4.95 MW, and a 121,000-foot-long transmission line.

l. *Description of Petition:* On October 16, 1986, Congress enacted ECPA, amending section 210 of the Public Utility Regulatory Policies Act (PURPA) by imposing three environmental conditions that license applicants for hydroelectric projects located at new dams or diversions must meet in order to qualify for PURPA benefits. These conditions are contained in § 292.203(c)(1)(ii) through (iv) of the Commission's regulations which implement section 8(a) of ECPA. A new diversion is a qualifying facility if:

(ii) The Commission finds that the projects will not have substantial adverse effects on the environment, including recreation and water quality, when it issues the license for the project;

(iii) The Commission finds, when it accepts the application for license for the project for filing under § 4.32(e) of this chapter, that the project is not

located on any segment of a natural watercourse that:

(A) Is included in (or designated for potential inclusion in) a State or National Wild and Scenic River System, or

(B) The State has determined, in accordance with applicable State law, to possess unique natural, recreational, cultural, or scenic attributes which would be adversely affected by hydroelectric development; and

(iv) The project meets the terms and conditions set by the appropriate fish and wildlife agencies under the same procedures as provided for under section 30(c) of the Federal Power Act.

Section 292.208(c) of the Commission's regulations provides for exception of a licensed project from the fish and wildlife agency conditions requirement of § 292.203(c)(1)(iv) and also from the payment of fees to reimburse fish and wildlife agencies for setting those conditions, upon the Commission's granting of a Petition Alleging Substantial Commitment of Monetary Resources. The petition must demonstrate that the applicant expended, or committed to spend, at least 50% of the cost of preparing the license application before October 16, 1986.

Section 8(b)(4)(B) of ECPA established a rebuttable presumption that the applicant has made the required showing of monetary commitment if it held a preliminary permit for the project and had completed all of the environmental consultations required by the Commission's regulations before October 16, 1986. The applicant held a permit for Project No. 7853, issued on October 25, 1984. Staff has not yet concluded whether applicant has completed consultations in accordance with § 4.38.

In section 8(e) of ECPA, implemented by § 292.203(c)(2) of the Commission's regulations, Congress imposed a moratorium on the availability of PURPA benefits to hydroelectric projcts located at new dams or diversions. In accordance with § 292.208(d), any project excepted from one or more of the three new environmental requirements is also excepted from the moratorium imposed by section 8(e) of ECPA.

The applicant states that it has made a substantial commitment of monetary resources before October 16, 1986, as shown below:

Total Cost for License Application—$61,898

Cost Expended before 10/16/86—$43,085

The license application has not been accepted for filing. All Additional costs incurred or committed up to the acceptance date of the application will be included in the total cost of preparing the license application and will be used in evaluating the petition. No finding on this petition will be made prior to acceptance of the application.

If this petition is granted, the applicant would be eligible to petition the Commission to make an initial finding on whether Project No. 7853 would have substantial adverse effects on the environment pursuant to §292.203(c)(ii) of the Commission's regulations above.

The petition will be available for inspection and copying during regular business hours in the public reference room maintained by the Division of Public Information, 825 North Capitol Street NE., Washington, DC.

m. This notice also consists of the following standard paragraphs: B, and C.

11. a. *Type of Application:* License.

b. *Project No.:* 10154–000.

c. *Date Filed:* October 30, 1986.

d. *Applicant:* North Troy Hydroelectric Company.

e. *Name of Project:* North Troy Project.

f. *Location:* On the Missisquoi River in Orleans County, Vermont.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. Daniel Myers, North Troy Hydroelectric Company, R.D. #3 Box 668, Barre, VT 05641, (802) 223–6878.

i. *FERC Contact:* Robert Bell, (202) 376–5706.

j. *Comment Date:* January 13, 1988.

k. *Description of Project:* The proposed project would consist of: (1) An existing 80-foot-long, 12.5-foot-high concrete spillway dam; (2) an impoundment with a surface area 5 acres, a storage capacity of 26 acre-feet, and a normal water surface elevation of 536.7 feet NGVD; (3) a proposed concrete intake structure; (4) a proposed 250-foot-long, 8-foot-diameter steel penstock; (5) a proposed powerhouse containing one generating unit with an installed capacity 680 kW; (6) a proposed 300-foot-long, 12-kV transmission line; and (7) appurtenant facilities.

The applicant estimates the average annual generation would be 2,400,000 kWh. The applicant intends to obtain all necessary property rights to develop this project. All project energy generated would be sold to local utilities. The dam and existing facilities are owned by James Hansen and John Lupien.

l. This notice also consists of the following standard paragraph: A4, B, C, and D1.

12. a. *Type of Application:* Conduit Exemption.

b. *Project No.:* 10434–000.

c. *Date Filed:* June 22, 1987.

d. *Applicant:* Scott D. Heiner.

e. *Name of Project:* Bedford Grand Canal Project.

f. *Location:* On the Bedford Grand Canal, an irrigation conduit, near the town of Bedford, in Lincoln County, Wyoming.

g. *Filed Pursuant to:* Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 *as amended.*

h. *Applicant Contact:* Scott D. Heiner, 4502 Watson Court, Midland, TX 79705, (915) 682–0550.

i. *FERC Contact:* Thomas Dean, (202) 376–9275.

j. *Comment Date:* December 23, 1987.

k. *Description of Project:* The proposed project would consist of: (1) A screened inlet; (2) a 350-foot-long, 21-inch-diameter buried penstock leading to; (3) a 10-foot by 10-foot powerhouse containing a single generating unit with a capacity of 30 kW operating at 24 feet of hydraulic head; and (4) a tailrace leading back to the Bedford Grand Canal. The applicant estimates the average annual energy production to be 125 MWh.

l. *Purpose of Project:* The applicant intends to sell the power generated at the proposed facility.

m. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3b.

13. a. *Type of Application:* Transfer of License.

b. *Project No.:* 2307–010.

c. *Date Filed:* October 14, 1987.

d. *Applicant:* Alaska Electric Light and Power Company (Licensee) and Alaska Electric Light and Power Company of Juneau (Transferee).

e. *Name of Project:* Annex Creek and Salmon Creek.

f. *Location:* On Annex and Salmon Creeks near Juneau, Alaska, partially within the Tongass National Forest, T41S, R69E, 68E and 67E.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. William A. Corbus, 134 North Franklin Street, Juneau, AK 99801, (907) 586–2222.

i. *FERC Contact:* Julie Bernt, (202) 376–9812.

j. *Comment Date:* December 14, 1987.

k. *Description of Project:* On December 23, 1963, a major license was issued to Alaska Electric Light and Power Company for the continued operation of the Annex Creek and Salmon Creek Project No. 2307. It is proposed to transfer the license to Alaska Electric Light and Power

Company of Juneau. The purpose of this proposed license transfer is to reflect corporate restructuring in order to facilitate accurate accounting of utility and non-utility operations.

The licensee certifies that it has fully complied with the terms and conditions of its license and obligates itself to pay all annual charges accrued under the license to the date of transfer. The transferee accepts all the terms and conditions of the license and agrees to be bound thereby to the same extent as though it were the original licensee.

l. This notice also consists of the following standard paragraphs: B and C.

14 a. *Type of Application:* Transfer of License.

b. *Project No.:* 6066–066.

c. *Date Filed:* October 15, 1987.

d. *Applicant:* McCallum Enterprises, Inc. (licensee) McCallum Enterprises Limited Partnership and Shelton Canal Company, Inc. (transferee).

e. *Name of Project:* Derby Dam.

f. *Location:* Housatonic River in New Haven and Fairfield Counties, Connecticut.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:*

Mr. Edward J. McCallum, McCallum Enterprises/Limited Partnership, and the Shelton Canal Company, Inc., 805 Housatonic Avenue, Bridgeport, CT 06604–1780, (203) 334–9471.

Mr. Gregory J. Pepe, McCallum Enterprises/Limited Partnership, and the Shelton Canal Company, Inc., 541 Fairfield Avenue, Bridgeport, CT 06604, (203) 334–9471.

i. *FERC Contact:* Dawna Leitzke, (202) 376–9820.

j. *Comment Date:* December 14, 1987.

k. *Description of Transfer:*

On October 15, 1987, McCallum Enterprises, Inc. (licensee), and McCallum Enterprises Limited Partnership and the Shelton Canal Company, Inc. (transferee), filed a joint application for transfer of a major license for the Derby Dam Hydroelectric Project No. 6066.

The purpose of the proposed transfer of the license is to facilitate the financing of the project. The better utilization of the tax credits created by the project will enable the licensee to facilitate project financing.

The proposed transfer will not result in any changes in the proposed development. McCallum Enterprises Limited Partnership and Shelton Canal Company are wholly owned by McCallum Enterprises, Inc.

The transferees state that they would comply with all the terms and conditions of the license.

l. This notice also consists of the following standard paragraphs: B and C.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development applications, must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b) (10 and 9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS",

"NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. An additional copy must be sent to: Mr. William C. Wakefield II, Acting Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203–RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments.* States, agencies established pursuant to federal law that have the authority to prepare a comprehensive plan for improving, developing, and conserving a waterway affected by the project, Federal and State agencies exercising administration over fish and wildlife, flood control, navigation, irrigation, recreation, cultural and other relevant resources of the State in which the project is located, and affected Indian tribes are requested to provide comments and recommendations for terms and conditions pursuant to the Federal Power Act as amended by the Electric Consumers Protection Act of 1986, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. Recommended terms and conditions must be based on supporting technical data filed with the Commission along with the recommendations, in order to comply with the requirement in section 313(b) of the Federal Power Act, U.S.C. 825l (b), that Commission findings as to facts must be supported by substantial evidence.

All other Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the statutes listed above. No other formal requests will be made. Responses should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not respond to the Commission within the time set for filing, it will be presumed to have no comments. One copy of an agency's response must also be set to the Applicant's representatives.

D2. *Agency Comments.*—Federal, State, and local agencies are invited to file comments on the described application. [A copy of the application may be obtained by agencies directly from the Applicant.] If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments.*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency)ies) are requested, for the purposes set forth in section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments.*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: November 10, 1987.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87–26378 Filed 11–13–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TA85–2–4–003, TA87–5–4–001, RP87–116–001]

Proposed Changes in Rates and Tariff Provisions; Granite State Gas Transmission, Inc.

November 9, 1987.

Take notice that on November 4, 1987, Granite State Gas Transmission, Inc. (Granite State), 120 Royall Street, Canton, Massachusetts 02021, tendered for filing with the Commission the revised tariff sheets listed below in its FERC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2, containing changes in rates and tariff provisions for effectiveness on August 1, 1987:

First Revised Volume No. 1

Second Substitute Twentieth Revised Sheet No. 7
Substitute Sixth Revised Sheet No. 7–A
Substitute Twelfth Revised Sheet No. 8
Substitute Third Revised Sheet No. 11
Substitute First Revised Sheet No. 24
Substitute First Revised Sheet No. 25
Substitute First Revised Sheet No. 26
Third Substitute Third Revised Sheet No. 70
Substitute Original Sheet No. 70–A
Third Substitute Second Revised Sheet No. 71
Substitute Original Sheet No. 71–A
Second Substitute Second Revised Sheet No. 72
Third Substitute Third Revised Sheet No. 75
Third Substitute First Revised Sheet No. 75–A
Second Substitute Original Sheet No. 75–B

Substitute Original Sheet No. 75–C

Original Volume No. 2

Substitute Seventh Revised Sheet No. 17
Second Substitute Seventh Revised Sheet No. 27
Substitute First Revised Sheet No. 36

Granite State also tendered for filing the following revised tariff sheets in its FERC Gas Tariff with a proposed effective date of October 1, 1987:

Third Substitute Twentieth Revised Sheet No. 7
First Revised Sheet No. 83
Original Sheet No. 84

Granite State states that the proposed changes in rates and other tariff provisions are applicable to wholesale sales, to a transportation service for system supply and to storage services and storage-related transportation services provided for its two affiliated distributor company customers: Bay State Gas Company (Bay State) and Northern Utilities, Inc. (Northern Utilities).

According to Granite State, the proposed changes in rates and tariff provisions are submitted to comply with a letter order of the Commission dated September 30, 1987 rejecting a filing made by Granite State on August 31, 1987. Granite State further states that the proposed changes in rates result from (1) its compliance with an order of the Commission issued July 20, 1987, in Docket Nos. TA85–2–4–000, *et al.*, directing Grante State, in flowing through in its rates the cost of gas purchased through the medium of Boundary Gas, Inc. to reclassify the demand and commodity components for such purchases in accordance with the requirements of Opinion Nos. 256 and 256–A in the matter of *Natural Gas Pipeline Company of America* and (2) tracking changes in the cost of gas purchased from Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) that Tennessee filed on October 14, 1987 in compliance with the requirements of Opinion No. 249–A and the settlement in Docket Nos. RP 85–178, *et al.* Granite State states that its revised sales rates in this filing result in a reduction of $2,945,444 annually for sales to Bay State and $994,428 annually for sales to Northern Utilities. It also states that the Tennessee filing reduced costs incurred by Granite State for transportation of gas for system supply and storage-related transportation services which are reflected in the tariff changes.

It is also stated that the revised tariff sheets proposed for effectiveness on October 1, 1987 add an Annual Charges Assessment (ACA) surcharge to Granite State's sales rates and an ACA adjustment provision to the General Terms and Conditions of its tariff conforming to the requirements of Order No. 472–B.

According to Granite State copies of its filing were served upon its customers, Bay State and Northern Utilities, and the regulatory commissions of the States of Maine and Massachusetts and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 16, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87–26379 Filed 11–13–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP87–129–001]

Filing; Great Lakes Gas Transmission Co.

November 9, 1987.

Take notice that on October 27, 1987, Great Lakes Gas Transmission Company (Great Lakes) filed First Revised Sheet No. 56–C to its First Revised Volume No. 1. Great Lakes states that the tariff sheet incorporates a provision stating that it is Great Lakes' intent not to recover any charges recorded in FERC Account No. 928 in a NGA section 4 rate case. Great Lakes also states that the revised tariff sheet reserves Great Lakes' right to change methods of annual charges cost recovery in the context of a general rate change filing under 18 CFR § 154.63.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and procedure (18 CFR §§ 385.214, 385.211). All such motions or protests should be filed on or before November 16, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87–26380 Filed 11–13–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP87–122–001]

Annual Charge Adjustments Filing; National Fuel Gas Supply Corp.

Take notice that on October 29, 1987, National Fuel Gas Supply Corporation (National) filed First Revised Sheet No. 72A to its FERC Gas Tariff, First Revised Volume No. 1, pursuant to the Order of the Director of OPPR accepting Annual Charge Adjustments issued on September 29, 1987. National states that it is submitting these revisions to its "ACA-related" tariff sheet to comply with the requirements of § 154.38(d)(6) of the Commission's Regulations.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before November 16, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secertary.

[FR Doc. 87–26381 Filed 11–43–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP86–232–014]

Proposed Changes in FERC Gas Tariff; Panhandle Eastern Pipe Line Co.

November 9, 1987.

Take notice that on October 13, 1987, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing certain tariff sheets to its FERC Gas Tariff, Original Volume No. 2. Panhandle states

that such filing is made to provide Rate Schedule LT-9 for the transportation of natural gas on behalf of National Steel Corporation (National Steel) as authorized in Docket No. CP86-232-000, *et al.* by the Commission's Opinion and Order No. 275-A issued September 10, 1987. Panhandle proposes that these sheets become effective September 10, 1987. Panhandle has served a copy of this filing on National Steel.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before November 17, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-26382 Filed 11-13-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-55-030]

Tariff Filing; Transcontinental Gas Pipe Line Corp.

November 9, 1987.

Take notice that on November 3, 1987, Transcontinental Gas Pipe Line Corporation (Transco) filed in the captioned proceeding certain revised tariff sheets to Second Revised Volume No. 1 and Original Volume No. 2 of its FERC Gas Tariff. The proposed effective dates of the revised tariff sheets are October 1, 1987 and November 1, 1987.

Transco states that the purpose of the instant filing is to revise Transco's sales and transportation rates to reflect the cost allocation and rate design methodology approved for the Transco system by the Commission in Opinion Nos. 260 and 260-A issued in Docket No. RP82-55-021 *et al.* on December 30, 1986 and August 19, 1987, respectively, as modified by the Commission's October 16, 1987 order on rehearing, and the October 19, 1987 letter order of the Director, Office of Pipeline and Producer Regulation, which letter order rejected Transco's initial compliance filing of September 18, 1987, without prejudice to the filing of the instant revised compliance filing.

Transco further states that revised the compliance rates are based on the cost of service and billing determinants contained in: Transco's compliance filing of April 1, 1987 in Docket No. RP87-7-007 which was accepted to become effective on said date by the Commission's order issued May 20, 1987, *Transcontinental Gas Pipe Line Corporation*, 39 FERC ¶ 61,189 (1987); Transco's compliance filing of August 21, 1987 in Docket No. RP87-7-021 (reflecting the reduction in the corporate Federal income tax rate) which was accepted to become effective July 1, 1987 by letter order issued September 24, 1987; and Transco's August 31, 1987 filing in Docket No. RP87-117-000 of revised tariff sheets to provide for collection from its sales and transportation customers of an Annual Charge Adjustment (ACA) of 0.20 cents per dt, which was accepted to be effective October 1, 1987 by an order of the Director of the Office of Pipeline and Producer Regulation issued September 29, 1987 in *Algonquin Gas Transmission Company, et al.*, Docket Nos. RP87-109-000, *et al.* Appendix B to the filing contains an Mcf-mile study and schedules supporting the derivation of the revised sales and transportation rates included in the filing.

Transco also states that the tariff rates contained in the revised tariff sheets proposed to be effective October 1, 1987 and November 1, 1987 are based on (i) the cost of gas and fuel component (including where applicable the unit rates attributable to demand charges paid to Sulpetro Limited) which were or are effective for the relevant periods pursuant to (a) Transco's filing of May 29, 1987 which was approved by the Commission's letter order issued July 16, 1987 in Docket Nos. TA85-1-29-012 *et al.* and (b) Transco's PGA filing of October 1, 1987 in Docket No. TA88-1-29-000, which was accepted to be effective November 1, 1987, subject to refund and conditions, by the Commission's October 29, 1987 order in such PGA docket, *Transcontinental Gas Pipe Line Corporation*, 41 FERC ¶ [**Editorial note**: Page citation is not yet available] (1987); and (ii) kthe non-gas cost component of the sales rates derived in accordance with Opinion Nos. 260 and 260-A.

Transco states that copies of the instant filing are being mailed to its jurisdictional customers and interested state commissions. In accordance with the provisions of § 154.16 of the Commission's Regulations, copies of this filing are available for public inspection during regular business hours, in a convenient form and place at Transco's main office at 2800 Post Oak Boulevard in Houston, Texas.

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 Rule 211 and Rule 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 November 16, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

Second Revised Volume No. 1

Effective November 1, 1987:

Substitute Forty-Ninth Revised Sheet No. 12
Substitute Forty-Fifth Revised Sheet No. 15
Substitute Sixth Revised Sheet No. 15-A

Effective October 1, 1987:

Substitute Forty-Eighth Revised Sheet No. 12
Substitute Forty-Fourth Revised Sheet No. 15
Substitute Fifth Revised Sheet No. 15-A
Substitute Third Revised Sheet No. 19
Substitute Third Revised Sheet No. 20
Substitute Third Revised Sheet No. 21
First Revised Sheet No. 22
Original Sheet No. 23
Original Sheet No. 24

Original Volume No. 2

Effective October 1, 1987:

Substitute Sixth Revised Sheet No. 41-A
Sixteenth Revised Sheet No. 53
Substitute Second Revised Sheet No. 112-A
Substitute Sixth Revised Sheet No. 310-A
Third Revised Sheet No. 322
Substitute Seventh Revised Sheet No. 349-A
Substitute Sixth Revised Sheet No. 404-A
Third Revised Sheet No. 417
Substitute Seventh Revised Sheet No. 474-A
Third Revised Sheet No. 501
Second Revised Sheet No. 502
Substitute Twelfth Revised Sheet No. 617-A

Substitute Sixth Revised Sheet No. 677–A
Substitute Sixth Revised Sheet No. 718–A
Substitute Sixth Revised Sheet No. 743–A
Substitute Sixth Revised Sheet No. 888–A
Substitute Ninth Revised Sheet No. 910–A
Substitute Twelfth Revised Sheet No. 1018–A
Substitute Sixth Revised Sheet No. 1064–A
Substitute Seventh Revised Sheet No. 1217–A
Substitute Second Revised Sheet No. 1300–A
Substitute Fourth Revised Sheet No. 1384–A
Substitute Sixth Revised Sheet No. 1417–A
Substitute Sixth Revised Sheet No. 1434–A
Substitute Sixth Revised Sheet No. 1451–A
Substitute Sixth Revised Sheet No. 1509–A
Substitute Seventh Revised Sheet No. 1526–A
Substitute Seventh Revised Sheet No. 1546–A
Substitute Seventh Revised Sheet No. 1558–A
Substitute Fourth Revised Sheet No. 1572–A
Substitute Ninth Revised Sheet No. 1599–A
Substitute Eighth Revised Sheet No. 1644–A
Substitute Sixth Revised Sheet No. 1661–A
Substitute Sixth Revised Sheet No. 1677–A
Substitute Fourth Revised Sheet No. 1853–A
Substitute Sixth Revised Sheet No. 1858–A
Substitute Eighth Revised Sheet No. 1874–A
Substitute Seventh Revised Sheet No. 1892–A
Substitute Sixth Revised Sheet No. 1910–A
Substitute Seventh Revised Sheet No. 1924–A
Substitute Seventh Revised Sheet No. 1960–A
Substitute Sixth Revised Sheet No. 1978–A
Substitute Sixth Revised Sheet No. 1999–A
Substitute Sixth Revised Sheet No. 2031–A
Substitute Sixth Revised Sheet No. 2063–A
Substitute Fourth Revised Sheet No. 2081–A
Substitute Sixth Revised Sheet No. 2086–A
Substitute Sixth Revised Sheet No. 2102–A
Substitute Fifth Revised Sheet No. 2118–A
Substitute Sixth Revised Sheet No. 2124–A
Substitute Seventh Revised Sheet No. 2151–A
Substitute Twelfth Revised Sheet No. 2169–A
Substitute Seventh Revised Sheet No. 2169–B
Substitute Second Revised Sheet No. 2188–A
Substitute Fifth Revised Sheet No. 2209–A
Substitute Third Revised Sheet No. 2215–A
Substitute Seventh Revised Sheet No. 2219–A
Substitute Sixth Revised Sheet No. 2236–A
Substitute Sixth Revised Sheet No. 2279–A
Substitute Sixth Revised Sheet No. 2284–A
Substitute Fifth Revised Sheet No. 2328–A
Substitute First Revised Sheet No. 2342–A
Substitute Sixth Revised Sheet No. 2407–A
Substitute Sixth Revised Sheet No. 2423–A
Substitute Fifth Revised Sheet No. 2439–A
Substitute Fifth Revised Sheet No. 2456–A
Substitute Fifth Revised Sheet No. 2473–A
Substitute Fourth Revised Sheet No. 2505–A
Substitute Ninth Revised Sheet No. 2541–A
Substitute Fifth Revised Sheet No. 2610–A
Substitute Fourth Revised Sheet No. 2624–A
Substitute Fourth Revised Sheet No. 2639–A
Substitute Third Revised Sheet No. 2662–A
Substitute Third Revised Sheet No. 2694–A
Substitute Third Revised Sheet No. 2702–A
Substitute Third Revised Sheet No. 2730–A
Substitute Third Revised Sheet No. 2743–A
Substitute Third Revised Sheet No. 2756–A
Substitute Second Revised Sheet No. 2771–A
Substitute Third Revised Sheet No. 2784–A

[FR Doc. 87–26383 Filed 11–13–87; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RP87–120–001]

Filing; Transwestern Pipeline Co., Division of Enron Corp.

November 9, 1987.

Take notice that on October 28, 1987, Transwestern Pipeline Company, Division of Enron Corp. (Transwestern), tendered for filing to become a part of Transwestern's F.E.R.C. Gas Tariff, Second Revised Volume No. 1.

Substitute Original Sheet No. 82
Substitute 39th Revised Sheet No. 5
Substitute 40th Revised Sheet No. 5

Transwestern states that these pages incorporate language to comply with all of the provisions required by Order No. 472–B issued in Docket RM87–3–002, *et al.* Specifically, Transwestern has added tariff language to comply with the requirements of section 154.38(d)(6)(ii)(A) of the Commission's Regulations and has changed the format of Sheet No. 5 to more clearly reflect Transwestern's *total* effective commodity rate including the Annual Charge Adjustment and GRI Surcharge.

Transwestern requests an October 1, 1987 effective date for Substitute Original Sheet No. 82 and Substitute 39th Revised Sheet No. 5 and an October 3, 1987 effective date for Substitute 40th Revised Sheet No. 5.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with the Commission's Rules of Practice & Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 16, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretay.

[FR Doc. 87–26384 Filed 11–13–87; 8:45 am]
BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3290-6]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared October 26, 1987 Through October 30, 1987 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2) (c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5075/76.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 24, 1987 (52 FR 13749).

Draft EISs

ERP No. D-AFS-J2013-UT, Rating EC2, Escalante Known Geological Structure (KGS), Oil and Gas Leasing and Development, Dixie National Forest, Garfield County, UT. SUMMARY: EPA recommends the final EIS discuss additional control and monitoring measures related to potential groundwater impacts in the Known Geological Structure from hydrocarbon or chemical spills and other deleterious materials. (The above summary should have appeared in the 10-30-87 FR Notice.)

ERP No. D-BLM-J02012-WY, Rating EC2, Sohare Creek Unit Exploratory Oil Well No. 1-35, Lease and Permit, Bridger-Teton National Forest, Teton County, WY. SUMMARY: EPA believes that the EIS correctly places a strong emphasis on aquatic resource, wetland, and watershed values. EPA requested: Additional analysis of resource conditions, potential impacts and cumulative impacts; specific criteria for protecting water quality and aquatic resources; additional mitigation plans for wetland losses and potential aquatic impacts; consistency with CWA Section 404 permit requirements; additional requirements for on-site waste handling; a CWA monitoring plan; and additional comprehensive areawide analyses based on anticipated similar projects.

ERP No. D-NOA-K90021-CA, Rating LO, Cordell Bank National Marine Sanctuary, Designation and Management Plan, Implementation, Pacific Continental Shelf, West of Point Reyes, CA. SUMMARY: EPA noted a lack of objections to the proposed designation of the Cordell Bank National Marine Sanctuary. EPA requested that NOAA analyze a broader range of alternatives for the management of hydrocarbon development activities within the boundaries of the proposed marine sanctuary.

Final EISs

ERP No. F-AFS-J65110-00, Kootenai National Forest, Land and Resource Management Plan, Implementation, Lincoln, Sanders, and Flathead Counties, MT and; Boundary and Bonner Counties, ID. SUMMARY: Though the final EIS provides a greater commitment to mitigation of potential water quality impacts, EPA still has concerns regarding the scope and level of details of the Monitoring and Evaluation Plan and potential corrective actions. The 2380 miles of new road construction which would occur in the first decade under the final Forest Plan has significant potential for adverse environmental impacts to water quality. EPA would like to work with the Forest Service to address these concerns in greater detail.

ERP No. F-AFS-K03017-CA, Angeles Pipeline Project, Construction, Operation, Maintenance, and Abandonment, Emidio Pump Station/ Tank Farm to Los Angeles Basin Refineries, Approval and Permits, 404 Permit, Angeles National Forest, Kern and Los Angeles Counties, CA. SUMMARY: EPA could not determine from thefinal EIS if the project will be in compliance with section 404(b)(1) of the CWA and therefore expressed continuing concern with this issue. EPA recommended that the Forest Service and the California Transportation Department coordinate with the COE on 404 permit requirements.

ERP No. F-BLM-G70003-NM, Farmington Resource Area Management Plan, Implementation, San Juan, McKinley, Rio Arriba and Sandoval Counties, NM. SUMMARY: EPA has no objections to the proposed action as described.

ERP No. F-COE-C32031-NJ, Claremont Terminal Channel Navigation Improvements, Implementation, Jersey City, Upper New York Bay, Hudson County, NJ. SUMMARY: EPA has no objections to the implementation of the expansion of the Claremont Terminal Channel. However, bioassay and bioaccumulation tests of dredge material must be repeated if implementation begins after December 31, 1988.

ERP No. FS-COE-E32064-00, Alabama-Coosa Rivers Navigation Channel, Operation and Maintenance, Alabama River Segment from its mouth to the vicinity of Montgomery, Alabama, Navigation Improvements, Implementation, Baldwin, Clarke, Monroe, Wilcox, Dallas, Autauga, Lowndes, Montgomery and Elmore Counties, AL. SUMMARY: EPA has reviewed the document and finds that our previous comments have been satisfactorily addressed.

ERP No. F-COE-K36087-CA, Santa Barbara County Streams Flood Control Plan, Implementation Lower Mission Creek, Santa Barbara County, CA. SUMMARY: EPA expressed concerns with potential deletion of riparian and tidal mudflat measures identified in the final EIS. EPA stated that the project fails to comply with the Clean Water Act section 404(b) (1) Guidelines if mitigation measures are not included in the final project proposal.

ERP No. F-SFW-L64031-AK, Rating LO, Tetlin National Wildlife Refuge, Comprehensive Conservation Plan and Wilderness Review, Implementation, AK. SUMMARY: EPA reviewed the document and found the plan and the preferred alternative to be satisfactory.

Dated: November 9, 1987

Barbara Bassuener,

Acting Deputy Director, Office of Federal Activities.

[FR Doc. 87-26347 Filed 11-13-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3291-3]

Science Advisory Board; Research Strategies Committee-Ecological Effects Subgroup; Open Meeting

Under the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that a two-day meeting of the Research Strategies Committee—Ecological Effects Subgroup of the Science Advisory Board will be held on December 15 and 16, 1987. The meeting will begin at 9:00 a.m. on December 15, in Conference Room #309 of the General Academy Building, on the corner of Avenues B and Mulberry, North Texas State University, Denton, Texas, and will adjourn on December 16 no later than 5:00 p.m.

The main purpose of the meeting is to continue developing a research strategy to meet EPA's ecological research needs. The key strategy elements of (1) measuring ecosystem status, (2) determining ecosystem trends and changes, (3) predicting changes to ecological systems, and (4) assessing risk to those systems will provide a

framework for Subcommittee recommendations. The Subcommittee will proceed with developing these recommendations in writing sessions.

The meeting will be open to the public. Anyone who wishes to attend, present information, or receive further details should contact Ms. Janis C. Kurtz, Executive Secretary or Mrs. Lutithia Barbee, Staff Secretary (A–101 F) Science Advisory Board, U.S. EPA, 401 M Street, SW., Washington, DC. Telephone: (202) 382–2552 or FTS–8–382–2552. Written comments will be accepted and can be sent to Ms. Kurtz at the address above. Persons interested in making statements before the Subcommittee must contact Ms. Kurtz no later than December 10, 1987, to be assured of space on the agenda.

Dated: November 5, 1987.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 87–26392 Filed 11–13–87; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

Title of Information Collection: Consolidated Reports of Condition and Income (Insured State Nonmember Commercial Banks) (OMB No. 3064–0052).

BACKGROUND: In accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review for the information collection system identified above.

ADDRESS: Written comments regarding the submission should be addresssed to Robert Fishman, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to Margaret M. Olsen, Deputy Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429.

COMMENTS: Comments on this collection of information should be submitted on or before December 1, 1987.

FOR FURTHER INFORMATION CONTACT: Requests for a copy of the submission should be sent to Margaret M. Olsen, Deputy Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429, telephone (202) 898–3812.

SUMMARY: The FDIC is submitting for OMB review changes to the Consolidated Reports of Condition and Income (Call Reports) filed quarterly by insured state nonmember commercial banks. These revisions would implement the regulatory reporting provisions of Title VIII of the Competitive Equality Banking Act of 1987 (12 U.S.C. 1823(j)) which permits small agricultural banks to amortize losses on qualified agricultural loans and other related assets over a period not to exceed seven years. The proposed revisions would be effective as of the December 31, 1987 report date and would be made only to the reports filed by banks with domestic offices only and total assets of less than $100 million (form FFIEC 034).

In addition, in conjunction with the implementation of a remote entry system for bank Call Reports that is scheduled for initial testing as of the December 31, 1987 report date, the format of Schedule RI–E for all banks is being revised without any change to the existing reporting requirements for this schedule.

As a result of the proposed changes, it is estimated that insured state nonmember banks, collectively, would experience an increase in annual reporting burden of 384 hours. The annual reporting burden on these banks would then amount to 785,174 hours.

Dated: November 9, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87–26358 Filed 11–13–87; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in §572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreements No.: (1) 202–008054–026; (2) 202–009502–019.

Titles: (1) South and East Africa/United States Conference; (2) United States/South and East Africa Conference.

Parties (1) & (2):

The Bank Line, Limited
Lykes Bros. Steamship Co., Inc.
South African Marine Corp. Ltd.

Synopsis: The proposed amendments would restate each agreement and would decrease the amount of both the membership fee and the surety bond required of the parties. They would also make certain changes to the agreements' voting requirements and allocation of expenses, and would delete United States Lines (S.A.), Inc. and add P & O Container Line as parties to the agreements. The amendments further would divide the conference into a South Africa group and an East Africa group for purposes of ratemaking, etc., and would require separate membership fees for each group joined.

Agreement No.: 232–011156.

Title: American Transport Lines, Inc./Pacific Atlantic Navigation, Ltd. Space Charter Agreement.

Parties:

American Transport Lines, Inc.
Trailer Marine Transport Corporation d/b/a Pacific Atlantic Navigation, Ltd.

Synopsis: The proposed agreement would permit the parties to charter space aboard one another's vessels, to interchange containers and related equipment and to rationalize sailings in the trade between United States ports and ports in Europe, South and Central America and the Far East. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: November 10, 1987.

Joseph C. Polking,

Secretary.

[FR Doc. 87–26370 Filed 11–13–87; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 87–22]

United States Lines (S.A.) Inc.; Petition for Declaratory Order re: the Brazil Agreements

Notice is given that a petition for declaratory order has been filed by the

United States Lines (S.A.) Inc. ("USA/SA") requesting that the Federal Maritime Commission ("FMC") remove uncertainty between USL/SA and A/S Ivarans Rederi ("Ivaran") as to the correct legal interpretation of certain provisions of the Brazil/U.S. Gulf Ports Agreement, FMC Agreement No. 212-010320, and the Brazil/U.S. Atlantic Coast Agreement, FMC Agreement No. 212-010027, (collectively "The Brazil Agreements").

The petition was served on counsel for Ivarans and that party may file a reply to the petition with the Secretary, Federal Maritime Commission, Washington, DC 20573-0001 on or before December 21, 1987. An original and fifteen copies shall be submitted and a copy thereof served on John W. Angus, III, Esq., Preston, Thorgrimson, Ellis & Holman, 1735 New York Avenue, NW., Suite 500, Washington, DC 20006. Replies shall contain the complete factual and legal presentation of the replying party as to the desired resolution of the petition.

Interested persons may inspect and obtain a copy of the petition at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 11101. Participation by persons other than those named above will be permitted only upon grant of a petition to intervene by the Commission pursuant to Rule 72 (46 CFR 502.72). Petitions for leave to intervene shall be submitted on or before the reply date and shall be accompanied by intervenor's complete reply including its factual and legal presentation in the matter.

Joseph C. Polking,

Secretary.

[FR Doc. 87-26371 Filed 11-13-87; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

First Wachovia Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has 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 225.24) 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)).

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 to the Reserve Bank indicated for that application 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.

Comments regarding this application must be received not later than December 4, 1987

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Wachovia Corporation,* Winston-Salem, North Carolina, to merge with North Georgia Bancshares, Inc., Canton, Georgia; and thereby indirectly acquire North Georgia Bank, Canton, Georgia.

Board of Governors of the Federal Reserve System, November 9, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-26344 Filed 11-13-87; 8:45 am]

BILLING CODE 6210-01-M

Lorren and Roxanne Henke; Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 4, 1987.

Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Lorren and Roxanne Henke,* Wishek, North Dakota; to acquire an additional 41.6 percent of the voting shares of Wishek Bancorporation, Inc., Wishek, North Dakota; and thereby indirectly acquire Security State Bank, Wishek, North Dakota.

Board of Governors of the Federal Reserve System, November 9, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-26345 Filed 11-13-87; 8:45 am]

BILLING CODE 6210-01-M

Bank of New England Corp.; Proposal to Underwrite, Deal in and Place Certain Securities to a Limited Extent

Bank of New England Corporation, Boston, Massachusetts ("Applicant"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for permission to engage *de novo* through its wholly owned subsidiary, BNE Capital Market Company, Boston, Massachusetts ("BNECMC"), in the activities of placing commercial paper and underwriting and dealing in, to a limited degree, commercial paper, municipal revenue bonds (including "public ownership" industrial development bonds), 1-4 family mortgage-related securities and consumer-receivable-related securities. These securities are eligible for purchase by banks for their own account but not eligible for banks to underwrite and deal in.

Applicant has also applied to underwrite and deal in securities that state member banks are permitted to underwrite and deal in under the Glass-Steagal Act ("eligible securities") (U.S. government securities, general obligations of states and municipalities and certain money market instruments), as permitted by §225.25(b)(16) of Regulation Y (12 CFR 225.25(b)(16)). BNECMC would conduct the proposed activities on a nationwide basis.

Section 4(c)(8) of the Bank Holding Company Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." Applicant has applied to place commercial paper and underwrite and deal in commercial paper, municipal revenue bonds, mortgage-related securities and consumer-receivable-related securities in accordance with the limitations set forth in the Board's Orders approving those activities for a number of bank holding companies. *See, e.g., Bankers*

Trust New York Corporation, 73 Federal Reserve Bulletin 138 (1987) (commercial paper placement); *Citicorp, J.P. Morgan & Co. Incorporated and bankers Trust New York Corporation*, 73 Federal Reserve Bulletin 473 (1987) (underwriting and dealing in commercial paper, municipal revenue bonds and mortgage-related securities); and *Chemical New York Corportion, The Chase Manhattan Corporation, Bankers Trust New York Corporation, Citicorp, Manufacturers Hanover Corporation and Security Pacific Corporation*, 73 Federal Reserve Bulletin 731 (1987) (underwriting and dealing in consumer-receivable-related securities).

The application presents issues under section 20 of the Glass-Steagall Act (12 U.S.C. 377). Section 20 of the Class-Steagall Act prohibits the affiliation of a member bank, such as Bank of New England, N.A., with a firm that is "engaged principally" in the "underwriting, public sale or distribution" of securities. Applicant states that it would not be "engaged principally" in such activities on the basis of the restrictions on the amount of the proposed activity relative to the total business conducted by the underwriting subsidiary and relative to the total market in such activity previously approved by the Board.

Any request for a hearing on this application must comply with § 262.3(e) of the Bord's Rules of Procedure (12 CFR 262.3(e)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Boston.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than December 1, 1987.

Board of Governors of the Federal Reserve System, November 9, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-26346 Filed 11-13-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87E-0343]

Determination of Regulatory Review Period for Purposes of Patent Extension; MEVACOR®

AGENCY: Food and Drug Administration.

ACTION. Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for MEVACOR® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

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

FOR FURTHER INFORMATION CONTACT: Philip L. Chao, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) generally provides that a patent may be extended for a period of up to 5 years as long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Mevacor®(lovastatin) which is indicated as an adjunct to diet for the reduction of elevated total and LDL cholesterol levels in patients with primary hypercholesterolemia (Types IIa and IIb) when the response to diet and other nonpharmacological measures alone has been inadequate. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Mevacor® (U.S. Pat. No. 4,231,938) from Merck & Co., Inc. The Patent and Trademark Office requested FDA's assistance in determining the patent's eligibility for patent term restoration, and in a letter dated October 14, 1987, FDA advised the Patent and Trademark Office that the human drug product had undergone a regulatory review period, and that the active ingredient, lovastatin, represented the first permitted commercial marketing or use of that active ingredient. This Federal Register notice now represents FDA's determination of the product's regulatory review period.

FDA has determined that the applicable regulatory review perod for Mevacor® is 1,204 days. Of this time, 913 days occurred during the testing phase of the regulatory review period, while 291 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* May 16, 1984. FDA has verified that the investigational new drug application (IND) for the drug became effective on May 16, 1984.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* November 14, 1986. FDA has verified the applicant's claim that the new drug application for Mevacor® (NDA 19-643) was initially submitted on November 14, 1986.

3. *The date the application was approved:* August 31, 1987. FDA has verified the applicant's claim that NDA 19-643 was approved on August 31, 1987.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this application seeks 2 years of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before January 15, 1988, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore,

any interested person may petition FDA, on or before May 16, 1988, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 9, 1987.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 87–26338 Filed 11–13–87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 79P–0236 et al.]

Approved Variances for Laser Light Shows; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that variances from the performance standard for laser products have been approved by FDA's Center for Devices and Radiological Health (CDRH) for 14 organizations that manufacture and produce laser light shows, light show projectors, or both. The projectors provide a laser light display to produce a variety of special lighting effects. The principal use of these products is to provide entertainment of general audiences.

DATES: The effective dates and termination dates of the variances are listed in the table below under "Supplementary Information."

ADDRESS: The applications and all correspondence on the applications have been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Sally Friedman, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4874.

SUPPLEMENTARY INFORMATION: Under 21 CFR 1010.4 of the regulations governing establishment of performance standards under section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), FDA has granted each of the 14 organizations listed in the table below a variance from the requirements of 21 CFR 1040.11(c) of the performance standard for laser products.

Each variance permits the listed manufacturer to introduce into commerce a demonstration laser product assembled and produced by the manufacturer, which is it particular variety of laser light show, laser light show projector, or both. Each laser product involves levels of accessible laser radiation in excess of Class II levels but not exceeding those required to perform the intended function of the product.

CDRH has determined that suitable means of radiation safety and protection are provided by constraints on the physical and optical designs and by warnings in the user manuals and on the products. Therefore, on the effective dates specified in the table below, FDA approved the requested variances by a letter to each manufacturer from the Deputy Director of CDRH.

So that each product may show evidence of the variance approved for the manufacturer of the product, each product shall bear on the certification label required by 21 CFR 1010.2(a) a variance number, which is the FDA docket number, and the effective date of the variance as specified in the table below.

Docket No.	Organization granted the variance	Demonstration laser product	Effective date and termination date
79P-0236 (renewal)	Laser Magic Productions, 401 Campdell Street, Playa del Rey, California 90291.	Laser Magic Productions laser light show incorporating the Class III Laser Magic System 1 and 2 projectors containing an argon laser and/or the Laser "Magic Image System 1 and 2 projectors with an argon laser and a krypton laser.	Aug. 18, 1987 to May 20, 1989.
82P-0012 (renewal)	Legends in Concert, 8535 Las Vegas Boulevard, So., Las Vegas, Nevada 89109.	Legends in Concert "Imperial Showroom" laser light show incorporating an InterScience Technology Model 430 argon and krypton laser projector.	Aug. 18, 1987 to Feb. 2, 1989.
83P-0078 (renewal)	Lazerus Productions, 2821 Ninth Street, Berkeley, California 94710.	Laser light shows incorporating the Macron Beam I Laser Projector assembled and produced by Lazerus Productions.	July 24, 1987 to Mar. 17, 1989.
84V-0234 (renewal)	Hotel Riviera, Incorporated, 2901 Las Vegas Boulevard South, Las Vegas, Nevada 89109.	Laser light shows assembled and produced by Hotel Riviera, Incorporated which incorporates a Laser Media Model LMS laser projection system with Class IV argon and krypton ion lasers.	July 14, 1987 to Sept. 19, 1988.
85V-0239 (renewal)	Laser Dreams, 7345 Healdsburg Avenue, Suite 11, Sebastopol, California 95472.	Laser Dreams laser light shows incorporating the Laser Dream Machine Model 1 laser projector with argon, helium-neon, and/or helium-cadmium lasers.	Aug. 18, 1987 to May 30, 1988.
85V-00324 (renewal)	Laser Spectacles, Incorporated, 130 East Hillcrest Lane, P.O. Box 1535, San Marcos, Texas 78667.	Class IV krypton Model 1001 LUXME Laser Projector and laser light shows produced and assembled by Laser Spectacles, Incorporated containing this projector.	July 29, 1987 to Aug. 1, 1989.
85V-0411 (renewal)	Rockwell International, 6633 Canoga Avenue, Canoga Park, California 91304.	Rockwell International laser light show and its projection systems assembled and produced by Rockwell International using Class IV Spectra-Physics Model 2030 argon and Model 165 krypton lasers.	Aug. 31, 1987 to Nov. 1, 1989.
87V-0107	TNT Enterprises, P.O. Box 3963, 535 Campus Drive, Stanford, California 94305.	TNT Enterprises laser light show incorporating the firm's L200 laser projector and an Ion Laser Technology ILT 500 Class IIIb argon laser.	Aug. 18, 1987 to Aug. 18, 1989.
87V-0171	Technological Artisans, 53 West 72nd Street, New York, New York 10023.	Technological Artisans TA–1 Class IV argon laser projection system and the Technological Artisans laser light shows using the TA–1.	Aug. 5, 1987 to Aug. 5, 1989.
87V-0204	Kings Productions, 1932 Highland Avenue, Cincinnati, Ohio 45219.	Kings Productions Model One Class IIIb helium neon laser projection system and the Carowinds laser light show "Those Magnificant Movies" assembled and produced by Kings Productions incorporating the Model One.	July 27, 1987 to July 27, 1989.
87V-0225	Oaklawn Partners, Limited, dba Club Sparx, 4411 Lemmon Avenue, Dallas, Texas 75219.	Club Sparx laser light shows using the Falk Special Effects/Groundstar Class III argon/krypton Horizontal Sequence laser projection system.	July 14, 1987 to July 14, 1989.
87V-0227	White Water, 250 North Cobb Parkway, Marietta, Georgia 30065.	White Water laser light show and the Series 550 Model Number 1 projection system with Class IV argon and krypton lasers.	Aug. 6, 1987 to Aug. 6, 1988.
87V-0234	Florida Cypress Gardens, P.O. Box 1, 2464 W. LK Summit Drive, Cypress Gardens, Florida 33880.	Florida Cypress Gardens laser light shows incorporating a Starlasers Starlight Series I-FC Class IV laser projection system.	Aug. 18, 1987 to Aug. 18, 1989.
87V-0282	Bell of Pennsylvania, One Parkway, Philadelphia, Pennsylvania 19102.	Bell of Pennsylvania's laser light show which incorporates the Laser Media Model LM laser projection systems and Fiber Ray projection heads.	Aug. 31, 1987 to Aug. 31, 1989.

In accordance with § 1010.4, the applications and all correspondence on the applications have been placed on public display under the designated docket number in the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177–1179 (42 U.S.C. 263f) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.86).

Dated: November 5, 1987.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 87–26340 Filed 11–13–87; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 87M–0347]

Pharmacia Intermedics Ophthalmics; Premarket Approval of the Models UV34B, UV34D, UV34L, U34DE, U34HS, UV37B, UV37D, UV37F, UV37K, UV37L, UV37W, U37BC, U37WB, UV49, UV49B, UV50H, UV50R, UV50S, and UV50T Ultraviolet—Absorbing Posterior Chamber Intraocular Lenses

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Pharmacia Intermedics Ophthalmics, Pasadena, CA, for premarket approval, under the Medical Device Amendments of 1976, of the Models UV34B, UV34D, UV34L, U34DE, U34HS, UV37B, UV37D, UV37F, UV37K, UV37L, UV37W, U37BC, U37WB, UV49, UV49B, UV50H, UV50R, UV50S, and UV50T ultraviolet-absorbing posterior chamber intraocular lenses. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by December 16, 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: Nancy C. Brogdon, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–8258.

SUPPLEMENTARY INFORMATION: On March 28, 1986, Pharmacia Intermedics Ophthalmics, Pasadena, CA 91107, submitted to CDRH an application for premarket approval of the Models UV34B, UV34D, UV34L, U34DE, U34HS, UV37B, UV37D, UV37F, UV37K, UV37L, UV37W, U37BC, U37WB, UV49, UV49B, UV50H, UV50R, UV50S, and UV50T ultraviolet-absorbing posterior chamber intraocular lenses. The devices are indicated for use in the visual correction of aphakia in patients 60 years of age or older, who are undergoing a primary lens implantation, in either the ciliary sulcus or capsular bag, following an extracapsular cataract extraction. The devices are available in a range of powers from 4 diopters (D) to 30 D in 0.5 D increments.

On July 17, 1986, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On October 6, 1987, CDRH approved the 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 with 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 Nancy C. Brogdon (HFZ–460), address above.

Opportunity for Administrative 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 under 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 persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 16, 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: November 5, 1987.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 87–26341 Filed 11–13–87; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 87M–0348]

Radiation Sterilizers, Inc.; Premarket Approval of Sterisal 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 Radiation Sterilizers, Inc., Menlo Park, CA, for premarket approval, under the Medical Device Amendments of 1976, of STERISAL STERILE UNPRESERVED AEROSOL PRESSURIZED SPRAY for use in the rinsing, heat disinfection, and storage of soft (hydrophilic) contact lenses. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by December 16, 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 September 10, 1987, Radiation Sterilizers, Inc., Menlo Park, CA 94025, submitted to CDRH an application for premarket approval of STERISAL 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., Los Angeles, CA 90068, to incorporate by reference the information contained in its approved premarket approval application for the STERIDYNE DYNASPRAY STERILE SALINE SOLUTION (Docket No. 87M–0159).

On February 27, 1987, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 30, 1987, CDRH approved the 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 STERISAL 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 CDRH prescribes by letter to the applicant.

Opportunity for Administrative 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 under 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 persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 16, 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: November 5, 1987.

John G. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 87–27337 Filed 11–13–87; 8:45 am]

BILLING CODE 4510–01–M

[Docket No. 87M–0349]

Steridyne Laboratories, Inc.; Premarket Approval of Steridyne Saline Solution

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Steridyne Laboratories, Inc., Hollywood, CA, for premarket approval, under the Medical Device Amendments of 1976, of STERIDYNE Saline Solution for use in the rinsing, heat disinfection, and storage of soft (hydrophilic) contact lenses. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDHR) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by December 16, 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 H. 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 February 9, 1987, Steridyne Laboratories, Inc., Hollywood, CA 90068, submitted to CDRH an application for premarket approval of STERIDYNE Saline Solution. The device is indicated for use in the rinsing, heat disinfection, and storage of soft (hydrophilic) contact lenses. The application includes authorization from Stericon Laboratories, Inc., Hollywood, CA 90068, to incorporate by reference the information contained in its approved premarket approval application for the Stericon™ Saline Solution (Docket No. 86M–0502).

On January 24, 1986, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 30, 1987, CDRH approved the 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 STERIDYNE Saline Solution 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 CDRH prescribes by letter to the applicant.

Opportunity for Administrative 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 under 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 persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 16, 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: November 6, 1987.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 87-26339 Filed 11-13-87; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Chemicals Nominated for National Toxicology Program; Toxicological Studies; Request for Comments

SUMMARY: On September 29, 1987, the Chemical Evaluation Committee (CEC) of the National Toxicology Program (NTP) met to review seven chemicals nominated for toxicology studies and to recommend the types of studies to be performed, if any. With this notice, the NTP solicits public comments on the seven chemicals listed herein.

FOR FURTHER INFORMATION CONTACT: Dr. Victor A. Fung, Chemical Selection Coordinator, National Toxicology Program, Room 2B55, Building 31, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-3511.

SUPPLEMENTARY INFORMATION: As part of the chemical selection process of the National Toxicology Program, nominated chemicals which have been reviewed by the NTP Chemical Evaluation Committee (CEC) are published with request for comment in the **Federal Register.** This is done to encourage active participation in the NTP chemical evaluation process, thereby helping the NTP to make more informed decisions as to whether to select, defer or reject chemicals for toxicology study. Comments and data submitted in response to this request are reviewed and summarized by NTP technical staff, are forwarded to the NTP Board of Scientific Counselors for use in their evaluation of the nominated chemicals, and then to the NTP Executive Committee for decision-making. The NTP chemical selection process is summarized in the **Federal Register,** April 14, 1981 (46 FR 21828), and also in the NTP FY 1987 *Annual Plan*, pages 17–19.

On September 29, 1987, the CEC met to evaluate seven chemicals nominated to the NTP for toxicological studies. The following table lists the chemicals, their Chemical Abstract Service (CAS) registry numbers, and the types of toxicological studies recommended by the CEC at the meeting.

Chemical	CAS No.	Committee recommendations
1. Heptachlor	76-44-8	—Perinatal toxicity studies.
2. Heptachlor epoxide.	1024-57-3	—Perinatal toxicity studies.
3. Lead (II) oxide	1317-36-8	—Defer.
4. Lead (III) sulfide.	1314-87-0	—Defer.
5. Ozone	10028-15-6	—Carcinogenicity. —Genotoxicity.
6. Polyvinyl alcohol (Molecular weight, 25,000.	9002-89-5	—Chemical disposition. —Teratogenicity. —Carcinogenicity.
7. Primaclone	125-33-7	—Carcinogenicity.

Of the seven chemicals, two have been previously selected for study by the NTP. Heptachlor was non-mutagenic in the *Salmonella* microsomal assay, and positive for chromosomal aberrations and sister chromatid exchanges in Chinese hamster cells *in vitro*. In feeding carcinogenicity studies, heptachlor was carcinogenic in both sexes of mice but not in rats. This chemical is currently on test in the mouse lymphoma assay. Primaclone was mutagenic in the *Salmonella* microsomal assay.

Interested parties are requested to submit pertinent information. The following types of data are of particular relevance:

(1) Modes of production, present production levels, and occupational exposure potential.

(2) Uses and resulting exposure levels, where known.

(3) Completed, ongoing and/or planned toxicologic testing in the private sector including detailed experimental protocols and results, in the case of completed studies.

(4) Results of toxicological studies of structurally related compounds.

Please submit all information in writing by (thirty days after date of publication). Any submission received after the above date will be accepted and utilized where possible.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 87-26352 Filed 11-13-87; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-87-1749; FR-2404]

Availability of Funding Under Fair Housing Assistance Program; Competitive Solicitation

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of fund availability.

SUMMARY: This notice solicits applications, from eligible State and local fair housing agencies, for funding under the Fair Housing Assistance Program (FHAP). Agencies must meet specific eligibility criteria set forth in this notice under paragraph I "Eligibility" and in 24 CFR Parts 111 and 115 in order to qualify for consideration under this program. This notice pertains to applications for competitive funding under the Type–II component of hte FHAP.

FOR FURTHER INFORMATION CONTACT: Maxine B. Cunningham, Director, Federal, State and Local Programs Division, Office of Fair Housing and Equal Opportunity, Room 5214, 451 Seventh Street, SW., Washington, DC 20410–2000. Telephone: (202) 755–0455. (This is not a toll-free number.) Application kits are available upon written or telephone request from the above. To ensure a prompt response, it is suggested that requests for application kits be made by telephone.

DATES: An application for funding under this Notice must be submitted between (November 16, 1987, and January 15, 1988, unless it qualifies for a late application exception as specified in the application kit and is received before funds are awarded.

SUPPLEMENTARY INFORMATION: The Fair Housing Assistance Program (FHAP) was authorized by Congress to enhance the fair housing capabilities of State and local civil rights agencies. The FHAP has two types of funding: Type I-Non-Competitive Funding and Type II-Competitive Funding. Type I/Non-Competitive Funding includes capacity building, training, complaint monitoring and reporting systems, and contributions for complaint processing. Type II-Competitive Funding includes specialized project proposals developed by State and local agencies to enhance their fair housing programs. This announcement pertains to applications for Type II Competitive Funding applications only.

Proposals submitted in response to any previous competitive solicitation will not be considered for funding under this announcement; however, eligible agencies may re-submit previous applications which were not funded, if such applications meet the criteria set forth in this notice. This announcement differs from prior announcements because it encourages multiple agency proposals and requires that proposals include a coordinated fair housing enforcement effort with various community resources. Community resources include government agencies, private fair housing organizations, traditional civil rights groups, private attorneys, educational institutions and other entities having an interest in or impact on the prevention and elimination of housing discrimination.

A multiple agency proposal is one which includes more than one *eligible* applicant. Single agency and multiple agency proposals may be submitted in accordance with the requiremetns of this notice.

Experience in the administrative enforcement of Title VIII demonstrates that when private fair housing and civil rights groups cooperate with public agencies, there is an increase in the number of housing discrimination complaints filed.

Some problems which arise because of lack of cooperation are:

(1) Many States which lack a substantial fair housing enforcement presence outside major metropolitan areas fail to cooperate with existing community resources which could enhance enforcement efforts in such areas. Absence of an "office" in rural areas and small towns may limit the effectiveness of fair housing efforts. Potential and actual victims of housing discrimination in these areas have difficulty in securing proper assistance. Cooperative efforts by governmental agencies with active civil rights groups and other similar groups in these areas could enhance outreach, increase investigative activities and secure better remedies for more effective fair housing enforcement.

(2) In many metropolitan areas throughout the country, where Councils of Government promote cooperation in law enforcement and service delivery programs which cross jurisdictional lines, attention is not directed to fair housing enforcement programs. The result is inadequate services for victims of housing discrimination. Lack of cooperation makes services hard to get. A complainant must locate the appropriate fair housing agency by trail and error. Often a city agency cannot even provide the correct phone number or address of the comparable county or State agency which processes complaints outside of the city limits.

(3) A private group attempting to assist complainants in filing with enforcement agencies faces a variety of different forms and procedures utilized by different agencies in the area. Frequently, private groups discourage complainants from filing administrative complaints, and public agencies frequently dissuade complainants from seeking advice from private groups.

Funds under this announcement are available to State and local agencies based upon the submission of viable project proposals designed to coordinate the efforts of both public and private fair housing agencies in addressing broader discriminatory housing practices.

This announcement of solicitation for competitive funding under FHAP is issued pursuant to 24 CFR Part 111. Interested agencies are urged to review 24 CFR Parts 111 and 115 and the information under paragraphs I and II in this announcement, to determine application eligibility.

Background

Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601–19 (the Federal Fair Housing Law), prohibits discrimination in the sale, rental or financing of housing and in the provision of brokerage services. Section 810(c) provides that wherever a State or local fair housing law is recognized as providing rights and remedies substantially equivalent to those in the Federal Fair Housing Law, the Secretary is required to notify the appropriate State or local agency of any complaint filed with HUD that appears to constitute a violation of the State or local law. Section 816 provides that the Secretary may cooperate with State and local agencies charged with the administration of State and local fair housing laws and, with the consent of such agencies, may use their services and their employees and may reimburse the agencies for services rendered in carrying out the Federal Fair Housing Law.

Other Matters

This program is described in the Catalog of Federal Domestic Assistance at 14.401, Fair Housing Assistance Program.

Information collection requirements associated with this program have been approved by OMB and assigned approval number 2529–0005.

Executive Order 12372

Applicants are advised that they must follow HUD procedures established to implement Executive Order 12372, "Intergovernmental Review of Federal programs." (24 CFR Part 52) (See also

the current list of HUD Programs subject to 24 CFR Part 52 published on August 7, 1987 at 52 FR 29488.) The Executive Order authorizes States to establish their own process for review and comment on the proposed Federal financial assistance programs. To comply with the Executive Order, all applicants for FHAP must provide an opportunity for review and comment to Stae and local elected officials if (1) the applicant's State has established a State process and (2) the FHAP has been specifically identified for review by the State process. A list of State Single Points of Contact will be included with application kits requested under this announcement. If the Order applies, the applicant should submit its proposal to HUD and to the State process simultaneously.

Applicants must provide HUD with a written assurance certifying the date on which a copy of the proposal was furnished to the State process. A 60-day comment period will begin five days from the date identified in the certification.

The Single Point of Contract and other commenting parties must mail their comments to Director, Office of Fair Housing Enforcement and Section 3 Compliance, Office of Fair Housing and Equal Opportunity, Room 5208, 451 Seventh Street, SW., Washington, DC 20410–2000.

I. Eligibility

To be eligible to apply for funds under the Fair Housing Assistance Program, an agency must meet the criteria prescribed in 24 CFR 111.104. Specifically: (1) The State or local fair housing law administered by the agency must have been recognized (and such recognition must continue to be outstanding) as providing substantially equivalent rights and remedies to those provided by Title VIII of the Civil Rights Act of 1968, under HUD procedures set out in 24 CFR Part 115 and (2) the agency must have executed a written Memorandum of Understanding with HUD that describes the working relationship in effect between the agency and the appropriate Regional Office of Fair Housing and Equal Opportunity.

Notwithstanding the preceding paragraph, under 24 CFR 111.104(b), an agency may submit a funding proposal under the Fair Housing Assistance Program if HUD has determined that the State or local fair housing law administered by such agency provides, on its face, substantially equivalent rights and remedies, but has not yet granted recognition to such law in accordance with 24 CFR Part 115. Evidence of such a determination by the Department shall consist of: (1) Publication of an invitation for written comments as described in 24 CFR 115.6(b), or (2) publication of a proposal under 24 CFR 115.4(b), as in effect before October 8, 1984, to add the jurisdiction to the list of recognized jurisdictions. In either such case, the agency may enter into negotiations with the Regional Office of Fair Housing and Equal Opportunity in order to develop a Memorandum of Understanding and may, at the same time, submit a funding proposal. If an agency that would otherwise qualify for funds has not been recognized as substantially equivalent by the time HUD has obligated funds to recognized, fundable agencies, HUD will obligate remaining funds to recognized agencies in accordance with the competitive provisions. No funds will be committed to any agency until it has been formally recognized as substantially equivalent.

All proposals for Type II funding must have relevance to matters pertaining to discriminatory housing practices based on race, color, religion, sex or national origin. All proposals must include one or more of the types of projects described in II A., below. To be considered for funding under this announcement, a proposal must include coordination with other community resources such as government agencies and private organizations or intitutionis.

II. Method of Competition

A. Scope

Applications are solicited for specialized project proposals as described in 24 CFR 111.103. Substantially equivalent agencies will, through a competitive process, receive funds to establish and expand cooperative efforts with HUD, private fair housing groups, private attorneys, law schools, institutions of higher education, and other entities having an interest in the prevention and elimination of housing discrimination. Applications must propose projects which are likely to create and strengthen fair housing enforcement activities through cooperative efforts among these entities. Proposals must include one or more of the following subject areas:

1. Projects designed to develop and implement outreach efforts to heighten public awareness of all forms of housing discrimination cognizable under Title VIII, and of fair housing rights and responsibilities, with particular emphasis on persons who historically have not exercised their fair housing rights because they lacked physical access to the services of a fair housing agency or because of cultural or other factors;

2. Projects to provide legal referral services to aggrieved persons and training and technical assistance to attorneys regarding Federal and State/local laws and ordinances prohibiting discrimination in housing;

3. Projects designed to identify new and subtle practices of discrimination in housing rentals, sales, terms and conditions, insurance or financing—and implementation of programs to eradicate such practices;

4. Projects designed to conduct testing or auditing programs of specific discriminatory housing practices, with respect to specific protected classes, or in special market areas, for enforcement or litigation purposes;

5. Technical assistance projects to enable the agency to work with the real estate industry, Community Housing Resources Boards (CHRBs), private fair housing groups, educational institutions, other government agencies or similar constituent groups;

6. Proposals designed to encourage the implementation of programs relating to the enforcement of fair housing by nonprofit organizations; and

7. Projects designed to conduct investigations of systemic discrimination for further processing by State and local fair housing agencies, State Attorneys General, State Real Estate Licensing agencies, HUD or the Department of Justice.

B. Classes of Funding

HUD's previous experience in competitive funding under this program indicates that larger agencies, particularly those State and local agencies in the more populous areas, have a decided advantage over smaller State and local agencies in an open competition for Type II funds. Accordingly, two classes of funding have been established.

1. Class A—Large Jurisdictions. All agencies that serve jurisdictions with populations of three million or more, or that receive an annual housing discrimination complaint workload of 100 or more complaints, will be treated as Class A agencies. The complaint workload is evidenced either by the total number of cases dual-filed with the agency and HUD during the period July 1, 1986 through June 30, 1987 or by the total number of cases received by HUD from the geographical area within the agency's jurisdiction during the same period, whichever is greater. All Class A agencies must compete in Class A.

2. Class B—Small Jurisdictions. All agencies that serve jurisdictions with

populations below three million *and* that receive an annual housing discrimination complaint workload of fewer than 100 complaints (evidenced as described above) will be treated as Class B agencies. Class B agencies may elect to compete in either Class A or Class B, but not in both.

C. Multiple Agency Proposals

Except under circumstances described in D. below, at least two eligible agencies must join together to submit a proposal. Agencies need not be in contiguous geographic areas in order to submit multiple agency proposals. Multiple Agency proposals are subject to the following conditions:

1. One agency must be designated as the applicant, submitting on its own behalf, with all others as proposed subcontractors. In the event of an award, the applicant will be treated as the recipient.

2. Agencies electing to participate in a multiple agency proposal, whether as an applicant or as a subcontractor, may NOT submit individual proposals.

3. A certification of agreement with the proposal from all eligible jurisdictions with which the applicant fair housing agency proposes to subcontract must be included in the application.

4. An agency which is a subcontractor in an eligible applicant's proposal cannot apply on its own as a lead applicant.

5. The applicant must compete within class A if the largest participating agency in the proposal meets the criteria under Class A.

D. Single Agency Proposals

In order to be eligible to submit a single agency proposal, an applicant must meet the following conditions:

1. The applicant must include evidence of good faith effort to solicit joint participation of other eligible applicants within or contiguous with its geographic boundaries, and

2. The applicant must certify that it was not offered a reasonable opportunity from any other eligible applicant to participate in a multiple agency proposal.

E. Program Totals and Agency Maximums

Approximately $1,600,000 is available under this Notice. A total of $1,000,000 is available for award to Class A applicants, with a maximum of $150,000 per applicant for single agency proposals and $350,000 for multiple agency proposals. A total of $600,000 is available for award to Class B applicants, with a maximum of $100,000 per agency for single agency proposals and $250,000 for multiple agency proposals. The Assistant Secretary for FHEO reserves the right to shift funds between classes to effectuate the purposes of this funding announcement.

F. Applications

An applicant may submit only one proposal under this notice. Applicants must submit all information required in the Type II application kit and must include sufficient information to establish that the proposal meets the criteria set forth at 24 CFR 111.106. Proposals must include a clear narrative description of the project and a timetable delineating the points at which the various components of the project will be initiated and completed.

Projects should be no longer than 24 months. Applicants should note that any research activities must serve to enhance the agency's fair housing program. Projects shall not be proposed that are planned for implementation with agency funds and would simply substitute FHAP funds for agency funds. Projects that appear to be aimed solely or primarily at research or data gathering unrelated to existing or planned fair housing enforcement or outreach programs will not be approved. Data gathering activities will require OMB approval under the Paperwork Reduction Act before Commencement of the activity.

G. Award Procedures

Applications for Type II funding under this notice will be evaluated competitively by Class, and awarded points based on the Factors for Award identified below. Proposals will be reviewed by a HUD Technical Evaluation Panel. The final decision rests with the Assistant Secretary or her designee. In making awards, the Assistant Secretary may exercise discretion to ensure equitable geographic distribution and to minimize duplication of funded activities.

Factors for Award (up to 100 points).

1. The extent to which the proposed project addresses issues that are in one or more of the areas identified in II. A. above. (up to 20 points)

2. The extent to which the project can be expected to have a successful impact upon the issues that the proposal addresses, including the degree to which the program budget can be sustained beyond the period of funding. (up to 15 points)

3. The extent to which the proposed project includes the participation of a variety of community resources that can aid in the implementation of the project. (up to 10 points)

4. The extent to which the applicant's proposal includes participation of other eligible jurisdictions. (up to 10 points)

5. The agency's overall capabilities, experience, and demonstrated ability to develop, establish, coordinate and manage specialized civil rights enforcement projects. (up to 10 points)

6. Experience and qualifications of the proposed project director and other key personnel for the project. If new personnel are to be used, provide a description of the process and criteria for selection of such personnel, including subcontractors and consultants. Where project-related duties will not be the sole responsibility of key personnel, applicant should include the percentage of time each person will spend on the project. (up to 10 points)

7. Adequacy and clarity of proposed procedures to be used by the applicant for coordinating and monitoring project activities to ensure timely completion; reasonableness of estimated timetable for implementation and completion of project. (up to 10 points)

8. Degree to which applicant's most recent past performance in other projects demonstrates timely and quality completion. This includes but is not limited to, Type I projects and Type II project and other specialized project activities undertaken by the agency within the last two years. (up to 10 points)

9. Extent to which racial ethnic/minorities are represented on the project staff. (up to 10 points)

Cost Factors—The proposal's project cost, while secondary, will be considered in addition to the factors stated above to determine the proposal or proposals most advantageous to the Government. Cost will be the deciding factor when proposals ranked under the above factors are considered acceptable, fall within a competitive range and are substantially equal. Furthermore, an applicant's proposal may not be funded when costs are determined to be unrealistically low or unreasonably high.

III. Special Provisions Governing Submission of Proposals

A. Funds under this announcement may not be used to fund attorneys to litigate individual fair housing cases.

B. In responding to this announcement, applicants must submit a narrative statement showing how the proposal addresses each of the factors for award under paragraphs II.G. above.

If an award is not made to an applicant whose proposal is initially selected for award but with whom HUD

cannot complete successful negotiations, and finding is still availabe, the next ranked applicant will be selected for negotiations.

C. Funding instrument. It is HUD's normal practice to fund successful applicants under cost reimbursable Cooperative Agreements. HUD reserves the right to employ the form of agreement to be most appropriate after negotiation with the applicant.

Authority: Title VIII, Civil Rights Act of 1968 (42 U.S.C. 3601–19); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: November 5, 1987.

Judith Y. Brachman,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 87–26409 Filed 11–13–87; 8:45 am]

BILLING CODE 4210–28–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–010–08–4212–13; CA 20645]

Realty Action; Exchange of Public and Private Lands n Placer, Stanislaus, Santa Clara and Tehama Counties, CA; Correction

SUMMARY: Correction of Notice of Realty Action published in Vol. 52, No. 180, Page 35151, Thursday, September 17, 1987. The above notice indicated that the surface and mineral estates of the offered and selected lands would be exchanged. This notice is hereby corrected to include a mineral reservation on a portion of the land offered to the United States by the proponent, the Trust for Public Land.

With the exception of lot 88 of secs. 15 and 16, T.15N., R.10E., MDM the offered lands shall be acquired by the United States subject to the following:

Excepting therefrom all those minerals and mineral rights, interests, and royalties, including without limiting the generality thereof, oil, gas, and other hydrocarbon substances, as well as metallic or other solid minerals, in and under said property reserved unto Southern Pacific Land Company, a California Corporation, its successor and assigns, however, Southern Pacific Land Company or its successors and assigns, shall not have the right for any purpose whatsoever to enter upon, into or through the surface of said property in connection therewith.

The lands that are affected by the above reservation are described as follows:

Mount Diablo Meridian, California

Placer County

T.15N., R.10E.,

Sec. 11: All.

Sec. 15: E½NE¼, N½SE¼, lots 2, 3, 6, 7, 8, 9, 10, 11, 12 and 13.

Date: November 6, 1987.

David N. Harris,

Acting Area Manager.

[FR Doc. 87–26320 Filed 11–13–87; 8:45 am]

BILLING CODE 4310–40–M

[AZ–050–8–4212–11, CA–20457]

Realty Action; Recreation and Public Purpose Lease; San Bernardino, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action—Recreation and Public Purpose Lease San Bernardino County, California.

SUMMARY: The following described lands and interests therein have been determined to be suitable to be classified for lease under the provisions of the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 *et. seq.*) and the regulations established by 43 CFR Parts 2740 and 2910, as amended in the Final Rulemaking published in the **Federal Register** on December 10, 1985:

T. 4½ N., R. 24 E., San Bernardino Meridian, California

Sec. 36, portion of lot 1, containing 2.5 acres.

The San Bernardino Sheriff's Department has applied to lease the above described lands for a substation. Proposed uses include an office, compound, and employee housing area.

Subject to all valid existing leases, permits, agreements, and rights-of-way, the lands are hereby segregated from appropriations under any other public land law, including location under the mining laws.

For a period of 45 days from the date of publication of this Notice, interested parties may submit comments to District Manager, 3150 Winsor Avenue, Yuma, Arizona 85365. Any objections will be reviewed by the State Director, who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of Interior, effective 60 days from the date of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Mike Ford, Area Manager, Havasu Resource Area, Bureau of Land Management, 3189 Sweetwater Avenue, Lake Havasu City, Arizona 86403, 602–855–8017.

J. Darwin Snell,

District Manager.

Date: November 4, 1987.

[FR Doc. 87–26319 Filed 11–13–87; 8:45 am]

BILLING CODE 4310–32–M

National Park Service

Upper Delaware Scenic and Recreational River; Citizen's Advisory Council; Meeting

AGENCY: National Park Service; Upper Delaware Citizens Advisory Council, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: November 20, 1987, 7:00 PM.[1] *Inclement Weather Reschedule Date:* December 11, 1987.

ADDRESS: Town of Tusten Hall, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent; Upper Delaware Scenic and Recreational River, P.O. Box C, Narrowsburg, NY 12764–0159; 717–729–8251.

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95–625, 16 U.S.C. 1724 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation and implementation of the management plan, and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will surround Cultural Resources in the Upper Delaware River Valley. The Upper Delaware Heritage Alliance will present an overview of cultural resource activities, including programs focusing on the National Registry of Historic Places, Oral History and Archeology.

[1] Announcements of cancellation due to inclement wheather will be made by radio stations WDNH, WDLC, WSUL, and WVOS.

The meeting will be open to the public.

Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Upper Delaware Citizens Advisory Council, P.O. Box 84, Narrowsburg, NY 12764. Minutes of the meeting will be available for inspection four weeks after the meeting, at the permanent headquarters of the Upper Delaware Scenic and Recreational River; River Road, 1–3/4 miles north of Narrowsburg, New York; Damascus Township, Pennsylvania.

James W. Colemen, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 87–26356 Filed 11–13–87; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 21666 (Sub-No. 1)]

The Cincinnati New Orleans and Texas Pacific Railway Co.; Exemption of Modification of Lease

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from prior approval under 49 U.S.C. 11343 *et seq.* modification of the lease pursuant to which the Cincinnati New Orleans and Texas Pacific Railway Company leases and operates the line of railroad known as Cincinnati Southern Railway between Cincinnati, Ohio and Chattanooga, Tennessee, subject to standard labor protection conditions.

DATES: This exemption is effective on November 19, 1987. Petitions for reconsideration must be filed by December 7, 1987.

ADDRESSES: Send pleadings referring to Docket No. 21666 (Sub-No. 1) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioners Representative.

FOR FURTHER INFORMATION CONTACT:

Joseph H. Dettmar, (202) 275–7245, [TDD for hearing impaired: (202) 275–1721].

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289–4357, (DC. Metropolitan area), assistance for the hearing impaired is available through TDD service (202) 275–1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission Headquarters.

Decided: November 6, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,

Secretary.

[FR Doc. 87–26351 Filed 11–13–87; 8:45 am]

BILLING CODE 7035–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee Engineering; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Committee for Engineering.

Date and Time: December 2–3, 1987; 10:00 a.m.–5:00 p.m., December 2, 1987; 8:30 a.m.–3:00 p.m., December 3, 1987.

Place: The State Plaza Hotel, The Diplomat Room, 2117 E Street NW., Washington, DC 20037, December 2, 1987;

National Science Foundation, 1800 "G" Street NW., Room 540, Washington, DC 20550, December 3, 1987.

Type of Meeting: Open.

Contact Person: Mrs. Mary Poats, Executive Secretary, Advisory Committee for Engineering, Room 537, National Science Foundation, Washington, DC 20550, Telephone: (202) 357–9571.

Minutes: Mrs. Mary Poats at the above address.

Purpose of Meeting: To provide advice, recommendations, and counsel on major goals and policies pertaining to Engineering programs and activities.

Agenda: Discussion on issues, opportunities and future directions for the Engineering Directorate; discussion of Engineering Directorate budget situation as well as other items.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 87–26314 Filed 11–13–87; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Ethics and Values Studies; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Ethics and Values Studies

Date and Time: November 30, 1987, 8:30 a.m. to 5:00 p.m.; December 1, 1987, 8:30 a.m. to 5:00 p.m.

Place: Room 1243, National Science Foundation, 1800 G Street NW., Washington, DC.

Type of Meeting: Part Open—Open November 30, 8:30 a.m. to 10:30 a.m.; Closed remainder.

Contact Person: Dr. Rachelle Hollander, Coordinator, Ethics and Values Studies, National Science Foundation, Washington, DC 20550, Telephone (202) 357–9894

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 and related activities in this field.

Agenda: Open—General Discussion of EVS priorities and review process; Closed—To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of 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 exemption (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 87–26315 Filed 11–13–87; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Application For Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application" please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. Copies of the applications are on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street NW., Washington, DC.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, the Secretary, U.S. Nuclear Regulatory Commission, and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear materials or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The information concerning these application follows.

NRC EXPORT APPLICATIONS

Name of applicant, date of application, date received, application No.	Material type	Material in kilograms		End use	Country of destination
		Total element	Total isotope		
Nissho Iwai, Oct. 26, 1987, Nov. 3, 1987, XSNMO1778, Amend. 06	45.40% enriched uranium	Additional 85.560	Additional 38.500	Additional fuel for JMTR research reactor	Japan.
Nissho Iwai, Oct. 26, 1987, Nov. 3, 1987, XSNMO1779, Amend. 04	45.40% enriched uranium	Additional 24.626	Additional 11.178	Additional fuel for JRR-2 research reactor	Japan.

For the Nuclear Regulatory Commission.

Dated this 10th day of November 1987 at Bethesda, Maryland.

Marvin R. Peterson,

Assistant Director for International Security, Office of Governmental and Public Affairs.

[FR Doc. 87-26405 Filed 11-13-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-440, 50-441]

Cleveland Electric Illuminating Co.; Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that Ms. Connie Kline, Ms. Theresa Burling, Mr. Russ Bimber, and Mr. Ron O'Connell, on behalf of Concerned Citizens of Lake County, Concerned Citizens of Geauga County, and Concerned Citizens of Astabula County, have requested that the Nuclear Regulatory Commission require the Cleveland Electric Illuminating Company to correct certain alleged deficiencies in its Emergency Preparedness Information Handbook for the Perry Nuclear facility and to redistribute a corrected handbook.

This petition is being handled as a request for action pursuant to 10 CFR 2.206 of the Commission's regulations, and, accordingly, appropriate action will be taken on the request within a reasonable time. Copies of the petition are available for inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555, and at the Local Public Document Room for the Perry Nuclear Power Plant at the Perry Public Library, 3753 Main Street, Perry, Ohio, 44081.

Dated at Bethesda, Maryland, this 9th day of November, 1987.

For the Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 87-26404 Filed 11-13-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No.: STN 50-374]

Commonwealth Edison Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendment to Facility Operating License No. NPF-18 issued to Commonwealth Edison Company (the licensee), for operation of LaSalle Station, Unit 2, located in LaSalle County, Illinois.

The licensee requested the amendment including changes in the Technical Specifications for Unit 2 in a letter dated September 19, 1986, supplemented by a letter dated August 18, 1987.

The amendment would authorize the licensee to increase the spent fuel pool storage capacity from 1080 to 4116 storage cells in LaSalle Unit 2.

There are two spent fuel storage pools at LaSalle County Station. The existing racks in each of these pools have 1080 fuel storage cells. In the 1989 to 1990 time frame the station will no longer have full core discharge reserve. Consequently, Commonwealth Edison proposes to replace the existing spent fuel racks for LaSalle Unit 2 with racks of a high density design. These free standing racks will have capacity for the storage of 4073 fuel assemblies and 43 special storage cells. The special storage racks consist of 35 control rod storage cells, five (5) defective fuel storage cells and three (3) control rod guide tube storage cells. The existing channel storage rack will remain intact.

The amendment would change Technical Specification Section 5.6 to reflect a nominal 6.26-inch center-to-center distance between fuel assemblies and a spent fuel storage capacity limited to no more than 4078 fuel assemblies.

Prior to 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.

By December 16, 1987, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularly the interest of the petitioner in the proceeding, and how that interests may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

The Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of section 143 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under section 143 of the NWPA, the Commission, at the request of any party to the proceeding, is authorized to use hybrid hearing procedures with respect to "any matter which the Commission determines to be in controversy among the parties." The hybrid procedures in section 143 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules, and the designation, following argument, of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWPA are found in 10 CFR Part 2, Subpart K, "Hybrid Hearing Procedures for Expansion of Spent Nuclear Fuel Storage Capacity at Civilian Nuclear Power Reactors" (published at 50 FR 41662 (October 15, 1985). 10 CFR 2.1101 et seq. Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within ten (10) days of an order granting a request for hearing or petition to intervene. (As outlined above, the Commissioner's rules in 10 CFR Part 2, Subpart G, and § 2.714 in particular, continue to govern the filing of requests for a hearing or petitions to intervene, as well as the admission of contentions.) The presiding officer shall grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting parties for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application shall be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding requests for oral argument are denied, then the usual procedures in 10 CFR Part 2, Subpart G apply.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Daniel R. Muller: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of the **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael Miller, Isham, Lincoln, and Beale, One First National Plaza, 42nd Floor, Chicago, Illinois 60603.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated September 19, 1986, supplemented August 18, 1987 that is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC; and at the Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Dated at Bethesda, Maryland, this 9th day of November, 1987.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III-2, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 87-26403 Filed 11-3-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 30-20787; License No. 29-21452-01; EA No. 87-121]

Consolidated NDE, Inc.; Order Imposing Civil Monetary Penalty

I

Consolidated NDE, Inc., Woodbridge New Jersey 07095 (the "licensee") is the holder of License No. 29-21452-01 (the "license") issued by the Nuclear Regulatory Commission (the "Commission" or "NRC") which authorize the licensee to use sealed sources to perform industrial radiography. The license was issued on October 6, 1983, and is due to expire on September 30, 1988.

II

An NRC safety inspection of the licensee's activities under the license was conducted on June 10, 1987. During the inspection, the NRC staff determined that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated July 15, 1987. The Notice states the nature of the violations, the provisions of the Nuclear Regulatory Commission's requirements that the licensee had violated, and that the civil penalty is assessed equally among the violations. Two responses, dated August 26, and October 1, 1987, to the Notice of Violation and Proposed Imposition of Civil Penalty, were received from the licensee.

III

After consideration of the licensee's responses and the statements of fact, explanations, and arguments for remission or mitigation of the proposed civil penalty contained therein, as set forth in the Appendix to this order, the Director, Office of Enforcement has determined that the penalties proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalty should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, PL

96–295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay a civil penalty in the amount of Five Thousand Dollars ($5,000) within thirty days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Attn: Document Control Desk, Washington, DC 20555.

V

The licensee may, within thirty days of the date of this Order, request a hearing. A request for a hearing shall be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Attn: Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator, Region I.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the licensee fails to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issue to be considered at such hearing shall be:

a. Whether the licensee was in violation of the Commission requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty as referenced in Section II above; and

b. Whether, on the basis of such violation, this order should be sustained.

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

Dated at Bethesda, Maryland, this 5th day of November 1987.

Appendix—Evaluation and Conclusion

On July 15, 1987, a Notice of Violation and Proposed Imposition of Civil Penalty was issued for violations of a license issued to Consolidated NDE, Inc. The licensee responded to the Notice by two letters dated August 26, and October 1, 1987. In its responses, the licensee does not deny any of the violations, which were classified in the aggregate as a Severity Level III problem, but does request a substantial reduction in the amount of the civil penalty. The NRC's evaluation and conclusion regarding the licensee's responses are as follows:

I. Restatement of Violations.

A. 10 CFR 34.41 requires in part the during each radiographic operation, the radiographer or radiographer's assistant maintain direct surveillance of the operation to protect against unauthorized entry into a high radiation area, unless the area is locked or equipped with a control device or alarm system as described in 10 CFR 20.203(c)(2).

Contrary to the above, on June 5, 1987, at a field site in Port Reading, New Jersey, radiographic operations involving a pipe located about 40 feet above ground level resulted in a high radiation area that was neither locked nor equipped with an alarm system or control device, and direct surveillance of all routes of access to the area to protect against unauthorized entry was not maintained by the radiographer or radiographer's assistant.

B. 10 CFR 20.203(c)(1) requires that each high radiation area be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words "Caution-High Radiation Area."

Contrary to the above, during radiographic operations on June 5, 1987 at a field site in Port Reading, New Jersey, a high radiation area was created that was accessible from a platform, and this high radiation area was not conspicuously posed with a "Caution-High Radiation Area" sign.

These violations have been categorized in the aggregate as a Severity Level III problem (Supplement IV).

Cumulative Civil Penalty—$5,000 assessed equally between the violations.

II. Summary of License Response

The licensee, in its responses, does not deny either of the two violations, which were similar to violations identified during the previous inspection in 1986. However, the licensee does request a substantial reduction in the civil penalty amount, stating that: (1) The individuals involved in the previous similar violations were not the same persons; (2) when dealing with human beings there always has and always will be a failure factor that management can control only up to a point regardless of how diligently they train, qualify and supervise the field labor force; (3) management is constantly alert to the Radiation Safety Program, adherence to requirements, and prompt and effective correction of deficiencies when they are identified; and (4) the licensee percentage of profit (loss in this case) is devastating at this time and a $5,000 civil penalty is of major proportions in today's market.

III. NRC Evaluation of Licensee Response

Although the NRC recognizes that the previous violations identified in 1986 involved individuals other than those responsible for the violations in 1987, it is nonetheless management's responsibility to take appropriate action whenever violations are identified to ensure that all individuals involved in licensed activities, not just those responsible for the violations, are aware of the violations so that appropriate action can be taken to prevent recurrence by any individual. Since these violations recurred, management's actions to prevent recurrence were not effective. In fact, the licensee's procedures for disciplining employees, including imposition of fines and discharges, which were described in their August 26 response, were not incorporated in the licensee Rules and Regulations for use of radioactive material until after these recent violations were identified in June 1987. Therefore, management's attention to the radiation safety program, as described in the licensee's response, does not provide a basis for reduction of the civil penalty.

Further, the licensee's financial information submitted in its October 1, 1987 letter, particularly with regard to net sales, does not demonstrate that imposition of a civil penalty would create such a severe financial burden that the facility could not continue to operate. Therefore, the NRC finds, consistent with its Enforcement Policy, that the imposition of a civil penalty will not result in economic termination of the licensee's business or financial hindrance of the licensee's ability to safety conduct licensed activities. Consequently, the licensee's current financial condition does not provide a basis for reduction of the civil penalty.

IV. NRC Conclusion

The licensee did not provide sufficient information for reduction of the civil penalty amount. Therefore, the NRC staff concludes that a $5,000 civil penalty should be imposed.

[FR Doc. 87–26406 Filed 11–13–87; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250 and 50-251; License Nos. DRP-31 and DPR-41; EA 87-98]

Florida Power and Light Co; Order Imposing Civil Monetary Penalty

I

Florida Power and Light Company, Turkey Point (the licensee) is the holder of Operating License Nos. DPR-31 and DPR-41 (the licenses) issued by the Nulear Regulatory Commission (NRC/Commission). These licenses authorize the licensee to operate the Turkey Point facility in accordance with the conditions specified therein.

II

An inspection of the licensee's activities was conducted on May 11-15, 1987. The results of this inspection indicated that the licensee had not conducted its activities in full compliance with NRC requirements with respect to safeguards activities. A written Notice of Violation and Proposed Imposition of Civil Penalty (NRC Inspection Report Nos. 50-250/87-25, 50-251/87-25, 50-250/87-29, and 50-251/87-29) was served upon the licensee by letter dated July 28, 1987. The Notice states the nature of the violations, the provisions of the NRC's requirements that the licensee had violated, and the amount of the civil penalty proposed for the violations. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalty by letter dated August 26, 1987.

III

After consideration of the licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the Director, Office of Enforcement has determined as set forth in the appendix to this Order that the violations occurred as stated, that the Severity Level III categorization is warranted, and that the penalty proposed for the violation designated in the Notice of Violation and Proposed Imposition of Civil Penalty should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, it is hereby ordered that:

The licensee pay a civil penalty in the amount of Seventy-Five Thousand Dollars ($75,000) within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Attn: Document Control Desk, Washington, DC 20555.

The Licensee may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Attn: Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator, Region II.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the licensee fails to request a hearing within 30 days of the date of this order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection. In the event the licensee requests a hearing as provided above, the issues to be considered as such hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty referenced in Section II above and

(b) Whether, or the basis of such violation, this Order should be sustained.

Dated at Bethesda, Maryland, this 5th day of November 1987.

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

[FR Doc. 87-26408 Filed 11-13-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219, License No. DPR-16, EA 87-185]

GPU Nuclear Corp. (Oyster Creek Nuclear Generating Station); Confirmatory Order (Effective Immediately)

I

GPU Nuclear Corporation, Parsippany, New Jersey 07054 (the "licensee") is the holder of License No. DPR-16 (the "license") issued by the Nuclear Regulatory Commission (NRC/Commission) which authorizes the licensee to operate the Oyster Creek Nuclear Generating Station in Ocean County, New Jersey, in accordance with conditions specified therein. The license was issued on August 1, 1969.

II

On September 11, 1987, at approximately 2:15 a.m., while the reactor was in cold shutdown and Operating Shift B was on duty in the control room, a violation of the license technical specifications occurred at Oyster Creek involving the failure to maintain the facility in accordance with Safety Limit 2.1.E. This safety Limit requires at least two of five recirculation pump suction and discharge valves be in the full open position, unless the reactor vessel head is removed and the reactor is flooded to a level above the main steam nozzles. The violation occurred when the reactor operator at the controls placed the control switch for the B Recirculation Loop discharge valve in the closed position, in preparation for shutting down the B pump as a result of the need to isolate the Reactor Building Closed Cooling Water (RBCCW) System due to a RBCCW leak. At the time, the discharge valves for the A, D, and E recirculation loops were closed, and closure of the B loop discharge valve resulted in the violation of the Safety Limit.

The operator was immediately alerted that the safety limit had been violated when he received an alarm in the control room. In response to that alarm, the operator apparently immediately opened the discharge valves for the A and D recirculation loops so as to return the plant to a condition within the bounds of the Safety Limit.

III

Subsequently, during the morning of September 11, 1987, licensee management concluded that a paper tape record for the Sequence of Alarms Recorder had been removed, and there might have been an attempt, by a member or members of the Shift in the control room (Operating Shift B), to conceal or destroy the record. The record provided evidence of a safety limit violation. The licensee immediately initiated, on September 11, 1987, an internal investigation and relieved the "B" shift crew of licensed duties, pending the results of an internal investigation which is being conducted by a consultant.

In letters from the President of GPU Nuclear Corporation in the NRC, dated September 22, 1987, and October 26, 1987, respectively, the licensee indicated that the NRC would be notified, and NRC approval obtained, before any members of the "B" shift crew were returned to licensed duties. Further, the October 26 letter indicated that a copy of the licensee's investigation report would be provided to the NRC upon its completion. The NRC investigation of this matter is continuing independent of the above mentioned licensee actions and activities.

IV

In view of the importance of a thorough investigation of these events to identify the circumstances associated with the Safety Limit violation and subsequent destruction of the Sequence of Alarms record, I have determined that the commitments made in the September 22 and October 26, 1987 letters are required in the interest of public health and safety, and therefore, should be confirmed by an immediately effective Order.

V

In view of the foregoing, pursuant to sections 103, 161(i), 161(o) and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR Part 50, It is Hereby Ordered, Effective Immediately, That The License is Modified as Follows:

A. The licensee shall prohibit any member of the operating Shift B who was on duty on September 11, 1987 from performing licensed duties unless the licensee notifies and obtains the approval of the NRC Regional Administrator, Region I, prior to returning such a person to licensed duties; and

B. The licensee shall provide the NRC Regional Administrator, Region I, a copy of the Investigation Report prepared by or on behalf of the licensee concerning this event upon completion of its investigation.

The Regional Administrator, Region I may relax or terminate any of the above conditions for good cause shown.

VI

The licensee, or any person who is adversely affected by this Order, may request a hearing within 30 days of the date of this Order. A request for hearing should be clearly marked as a "Request for Hearing" and shall be submitted to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Docket Control Desk, Washington, DC 20555 with copies to the Assistant General Counsel for Enforcement, the Regional Administrator, Region I, 631 Park Avenue, King of Prussia, PA 19406 and the NRC Resident Inspector, Oyster Creek Nuclear Generating Station. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order shall be sustained. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). Upon failure of the licensee and any other person adversely affected by this Order to answer a request for a hearing within the specified time, the Order shall be final without further proceedings. An answer to this order or a request for hearing shall not stay the immediate effectiveness of this order.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland, this 5th day of November 1987.

James M. Taylor,

Deputy Executive Director for Regional Operations.

[FR Doc. 87-26407 Filed 11-13-87; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Federal Employee Direct Corporate Ownership Opportunity Plan

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: OPM offers for public comment a detailed plan describing a new method to contract out for Government commercial services—the Federal Employee Direct Corporate Ownership Opportunity Plan, or FED CO-OP. FED CO-OP is based on the policy guidelines of OMB Circular A-76, whereby the Federal Government is obligated to rely on the private sector wherever possible for the provision of goods and services. What is innovative about the FED CO-OP plan is its recognition of the affected Federal employees as an important constituent group in the privatization process. The aim of the plan is to share with these employees financial benefits resulting from privatization. FED CO-OP offers partial ownership of the company providing the service via an Employee Stock Ownership Plan, or ESOP; guaranteed employment for a limited period; and firstrate outplacement service for those employees who depart the company after the initial employment period. These benefits supplement other corporate benefits provided by the employer.

DATE: Comments on this plan should be received 60 days after date of publication.

ADDRESS: Send or deliver comments to: Thomas J. Simon, Associate Director for Administration, Office of Personnel Management, Room 5542, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Melanie Merkle, Office of Privatization, (202) 395-5700.

SUPPLEMENTARY INFORMATION: This notice serves to provide information on FED CO-OP to all interested parties and to invite written comments from them. No rule or regulation is being proposed at this time. The plan as described in this notice is a blueprint for implementing FED CO-OP in a general situation. OPM will tailor FED CO-OP to individual circumstances where appropriate. Agencies can work with the Office of Personnel Management to implement FED CO-OP as detailed in this notice. Agencies have the authority to incorporate a broad range of contract requirements in Requests for Proposals (RFPs), and OMB Circular A-76 instructs the Federal Government to rely on the private sector for the provision of commercial goods and services.

A Brief Overview

After deciding to privatize a particular Government activity or function, an agency retains a private accounting firm to determine the true total current operational cost of the activity. The agency then prepares and solicits a Request for Proposals. Evaluating the bids received, an agency selects the one with the best price according to standard competitive procurement procedures. The company with the winning bid establishes a 100-percent-owned subsidiary to run the activity, and the subsidiary creates an Employee Stock Ownership Plan (ESOP), buying parent company stock. The firm then hires the employees who had been running the activity for the Government and who wish to join the new company. All firms competing will follow the FED CO-OP guidelines detailed in this notice.

Selecting Activities for FED CO-OP

Three criteria must be met before an agency can consider FED CO-OP for a particular activity:

1. The activity must provide a product or service which can be obtained from a commercial source.

2. The activity must have a minimum of fifty full time employees due to current laws governing ESOPs.

3. The agency must have the authority to contract out for commercial services. In recent years Congress has restricted certain agencies' ability to contract out, or levied specific requirements affecting how it is to be accomplished. An agency's General Counsel or A-76

manager should be consulted to determine any limitations.

In addition to these three mandatory criteria, there are others which will affect the successful privatization of an activity. The anticipated cost of contract operations should be less than the current cost of operations. Experience with A–76 indicates that costs average thirty percent less in functions which are converted to contract. This is a good target level which would enable an ESOP to be adequately funded. In FED CO-OP, Government savings resulting from contracting out will be shared with the Federal employees currently performing the function in the form of an ESOP. Market surveys, the contracting out experiences of other agencies and Department of Labor Service Contract Age wage determinations for comparable private sector jobs can help in estimating savings potential.

In addition to savings, employee support is fundamental to the success of FED CO-OP. To ensure compliance with conflict of interest laws (18 U.S.C. 201 et seq.), great care must be taken to insulate employees from the decision making process and to ensure they do not represent contracts while still Federally employed. Employees SHOULD be consulted prior to making the actual decision to FED CO-OP, but they MUST be protected from violating these conflict of interest laws.

Finally, the economic viability of the business should be taken into consideration. For example, the activity should be one for which there will be a continued need, and growth potential outside the Federal sector is highly desirable.

Determining Current Cost of Operations

Once an activity has been selected for FED CO-OP, the agency must hire an independent accounting firm to determine the current operating cost of the activity to the Government. For purposes of this program, an accounting firm is not independent if it maintains any ownership interest in the FED CO-OP firm or any member of its controlled group. The firm shall be selected according to current contracting-out guidelines.

The accounting firm will develop costs reflecting the best estimate possible of anticipated costs of the activity based upon the agency's current assumptions about its operation. This differs from A–76, where the in-house cost estimate is based on projected changes to make operations more competitive with the private sector. Because FED CO-OP estimates are based on current operations, it can apply more specific procedures in some instances than is the case with A–76. This information will be provided to prospective contractors in the FED CO-OP solicitation.

- FED CO-OP will rely on current fiscal year staffing levels, using actual pay rate steps at time of estimated contract commencement.
- Fringe benefits will be computed as follows: For employees covered by the Federal Employee Retirement System (FERS), OMB's guidance to agencies on estimating benefits will apply (see OMB Bulletin No. 87–2). For example, for FY87 the OMB FERS estimates were 22.4%—5.7% for OASDI (Old Age Survivor and Disability Insurance); 14.7% agency FERS contribution; and 3.0% agency thrift contribution. Normal dynamic cost estimates as reported by OPM will apply for Civil Service Retirement System employees. Currently it is 27.9%—7% agency contribution; and 20.9% other funding sources.
- Material and supply costs will be calculated applying the same mark-up rates as apply to A–76, but the data will be reflected as direct agency costs and indirect costs.
- Overhead will be calculated based on the following: (1) Identify positions, overtime or portions of positions that would be eliminated by FED CO-OP; (2) subtract from that figure the estimated contract administration staff (FTE) remaining in-house; (3) any remainder greater than zero is calculated as overhead cost.
- Gain or loss on disposal/transfer of assets; contractor OASDI and thrift plan costs; income tax; conversion differential; and one-time conversion costs are not applicable in FED CO-OP, as they are not part of current cost of operations.

Issuing a Request for Proposals

After obtaining cost estimates, the agency will issue a Request for Proposals with the following FED CO-OP requirements:

1. A performance work statement will be prepared by the agency contracting for a commercial activity in accordance with A–76 requirements. The agency will also prepare a contract surveillance plan.

2. In the event that no offer is received that is in compliance with these FED CO-OP requirements, then no contract shall be granted.

3. Prior to commencement of work under the contract, the source selected from among the proposals submitted establishes a FED CO-OP firm as a subsidiary corporation that shall be the contracting party for performance of the commercial activity.

4. Within 90 days of the commencement of work under the contract, the FED CO-OP firm or a member of its controlled group is a sponsor of an ESOP in compliance with ESOP requirements as detailed in this notice. The ESOP shall at all times during the performance of the contract, including any extensions, remain in compliance with FED CO-OP requirements.

5. Within 90 days of the commencement of work under the contract, the ESOP acquires employer securities to a type described under Employer Securities to be Acquired by the ESOP in this notice.

6. All employer securities acquired by the ESOP shall be allocated to the accounts of ESOP participants performing services for the commercial activity contracted. The securities shall be allocated at the rate not less rapid than would apply under 26 CFR 54.4975–7(b)(8) if the securities had been acquired with the proceeds of an exempt loan payable in equal annual installments over the duration of the contract awarded, including all optional extensions thereof. If allocation at such a rate is prohibited by section 415 of the Internal Revenue Code, then allocation shall be made at the maximum permissible rate until all employer securities so acquired have been allocated to the participants.

7. The ESOP and benefits provided under the ESOP during the period of the contract, including any optional extensions, are not considered for purposes of applying employee benefit plan nondiscrimination requirements (including those in sections 401(a)(4) and 401(a)(5) of the Internal Revenue Code) to employees of the FED CO-OP firm.

8. Upon commencement of work under the contract, the FED CO-OP firm shall in good faith offer employment to all former Government employees of the contracted activity. During the first 180 days of the contract, no former Government employee shall without his or her consent be transferred or released from employment except for good cause of nonfeasance or malfeasance of duties.

9. During the first year of the contract, the FED CO-OP firm shall in good faith offer outplacement services meeting the requirements in this notice to all former Government employees who terminate employment.

Employment Guarantee

Consistent with the Government post-employment conflict of interest regulations, the Contractor shall offer employment to all former Federal workers of positions identified in the Request for Proposals. The employment to be offered to each such person shall

be of the same position (full-time, part-time or intermittent) and, whenever possible, carry responsibilities generally equivalent to those performed while in Government service, or for which they are qualified.

During the first 180 days of the contract, no former Federal employee shall without his or her consent be transferred or released from employment except for good cause or non-feasance or malfeasance of duties.

Offers of employment by the Contractor shall be communicated to each former Federal employee in writing, specifying at a minimum the following:

1. Title, description and location of employment opening being offered;
2. Pay and benefits of position;
3. Hours of work;
4. Final date employee may accept job offer. At a minimum, employees shall be given five working days after receipt of an offer to accept or reject it. At the Contractor's request, the Government shall determine if an employee has waived his or her employment right by not responding to a job offer.

Upon request, the Contractor shall make available for examination by the Contracting Office all pertinent records requested to determine compliance with these requirements.

RIF Rights

All employees in the affected activity will have the rights and options under reduction in force procedures. These include bump and retreat, severance pay, and involuntary retirement rights. Those who do not opt to work for the FED CO-OP firm will be placed on a retention register for consideration in other jobs within the agency based upon four factors: type of appointment; veterans preference; length of service and performance rating. Depending on their standing on the retention register, employees will be afforded normal bump and retreat rights to jobs in the competitive area.

In addition, employees will have the right to be placed on the agency Reemployment Priority List, as well as be enrolled in the Interagency Placement Assistance Program and the Displaced Employee Program.

The Employee Stock Ownership Plan

OPM has chosen ESOP as the vehicle to provide partial employee ownership to the affected Government employees. It establishes individual accounts of stock for employees, based on relative compensation—i.e., the higher a person's salary, the more shares of stock are placed in the account. Initially, all stock will be held in a suspense account with an independent trustee acting as sole shareholder. Stock is released into individual employee accounts in increments, and remains in account until an employee departs the firm. At that time, the account is released. Because employees are required to hold on to their stock as long as they remain employed by the firm, they have a strong interest in the firm's productivity and profitability.

ESOP Benefits

ESOPs provide multiple benefits to employers and employees. Because the ESOP must be pre-funded (to protect former Federal workers), a bank loan may be necessary. Lenders pay tax on only half the interest received on an ESOP loan. This means ESOPs can negotiate lower interest rates on loans.

Contributions to the ESOP used to repay the loan principal are tax deductible.

Dividends on stock paid to an ESOP are deductible to the firm if they are passed through in cash to participants. This avoids double taxation of corporate income. In addition, this creates an incentive to the ESOP to pay dividends to employee participants on their stock as it is released to their accounts.

Employees do not pay tax on the shares as they are allocated. They pay tax only when they depart the company and receive their ESOP shares. Even then, an employee could roll over the stock into an IRA or other qualified account. Direct distribution would cost an employee approximately $6,000 cash on $15,000 worth of stock.

ESOP Requirements

In addition to FED CO-OP requirements in the RFP, there are ESOP requirements which must be met when an activity is contracted out using the FED CO-OP method.

1. The ESOP plan must meet the requirements of Internal Revenue Code section 4975(e)(7), which establish that the ESOP is a qualified stock bonus plan with specific distribution requirements, as are outlined in the FED CO-OP proposal.

2. All former Government employees who accept employment with the FED CO-OP firm become participants in the plan upon commencement of work under the contract.

3. All former Government employees whose service with the FED CO-OP firm terminates during the first year of the contract, other than by voluntary quitting or by firing for cause, are entitled to receive the maximum annual additions to their accounts permitted by section 415 of the Internal Revenue Code. All such employees are 100 percent vested in their accounts. All such employees are entitled to receive their distributions within 30 days of termination of employment.

4. Plan participants are entitled to direct the voting of employer securities allocated to their accounts on all corporate issues.

5. The plan provides for the current payment to participants of dividends received on employer securities allocated to participant accounts.

6. The fair market value of employer securities acquired and disposed of by the plan, and not readily tradable on an established securities market, is determined by an independent appraisal firm.

7. The trustee or custodian of all assets under the plan is an independent trustee. This requirement does not prevent the plan from providing for an administrative committee to direct the trustee.

Employer Securities to be Acquired by the ESOP

Amount: The minimum fair market value of employer securities to be acquired by the ESOP, as of the date of their acquisition, shall be equal to the savings to be achieved by the Government over the life of the contract. The savings for each year of the contract shall be the difference between actual cost to the Government and the contract price. The total savings over the life of the contract will be calculated based on the assumption that all optional extensions will be exercised by the Government. At the discretion of the agency, the actual cost to the Government in future years may be adjusted for anticipated inflation.

This does not ensure that an adequate ESOP will be funded. If, for instance, a bid came in at 95% of the Government's cost, employees would not receive must stock. Agencies may wish to set a condition that the average FED CO-OP employee must receive a minimum value of stock in the ESOP in order for a bid to be selected. If a minimum value option is used, the ESOP will be funded at the greater of the two values: the pre-set minimum value or the amount of Government savings resulting from the contract.

Type of Securities: FED CO-OP will normally require the ESOP to be invested in parent company stock to protect the interests of the former Federal employees upon completion of the initial contract. Requiring the FED CO-OP ESOP to invest in parent company stock ensures that the parent company will not bid against the subsidiary at the end of the initial

contract period. Since the parent company owns 100% of the subsidiary, it has no incentive to bid against it.

The subsidiary, by definition, will be a closely held company, while in many cases the parent will have publicly traded stock. Holding publicly traded stock in their ESOP benefits employees in a number of respects:

- Securities laws guarantee greater availability of information about publicly traded stock;
- There is no controversy about fair market value appraisal of publicly traded stock—the market sets the price;
- Employees will receive readily marketable stock distributions from the ESOP;
- Risk-adverse employees may feel more comfortable with stock of a major, diversified company.

If, however, the parent company is closely held, then an alternative valuation method is used. An independent appraiser will be used to value the stock. Since the same methodology will be used to initially value the stock and to set the selling price when an employee decides to cash in his ESOP shares, the employee is protected from under- or over-valuation.

Once the type of securities to be attained by the ESOP have been decided, there are FED CO-OP conditions which must be met:

1. Securities acquired by the ESOP may not be securities issued by the FED CO-OP firm that is a party to the contract, unless the following conditions are met:

(a) No other member of the FED CO-OP firm's controlled group within the preceding three years have been engaged in a line of business similar to that of the commercial activity;

(b) Within 90 days of commencement of the contract, the ESOP trust is given in writing the option of purchasing for cash all outstanding securities issued by the FED CO-OP firm. The option will be exercisable during the six-month period following the expiration of the contract, including all optional extensions. The option will be exercisable at the fair market price of the securities, determined by an independent business appraiser selected by a majority vote of the employees of the FED CO-OP firm and compensated by the ESOP. The option will provide that an independent fiduciary, also selected by a majority vote of the employees and compensated by the ESOP, shall be appointed to arrange any financing that may be necessary to accomplish the transaction.

2. If any securities issued by any member of the FED CO-OP's controlled group of corporations are readily tradable on a national securities exchange, then the securities acquired by the ESOP must be readily tradable on a national securities exchange.

Outplacement Service Requirements

An outplacement service for former Government employees whose employment is terminated by the FED CO-OP firm during the first 365 days of the contract meets the requirements of FED CO-OP if the following conditions are satisified:

1. The firm or firms to provide the service are designated in the offeror's proposal.

2. The former Government employees who will be using the outplacement service will have the right to direct that the service be provided by a firm of their choosing, rather than by the firm designated in the offeror's proposal. However, exercise of this right may not compel the FED CO-OP firm to pay fees in excess of the requirements of this notice.

3. The fees for the service are paid by the FED CO-OP firm.

4. The fees for the service are at least equivalent to 10 percent of the annualized compensation of the former Government employees whose employment is terminated by the FED CO-OP firm.

5. The service is not provided by a member of the FED CO-OP's control group. Fees paid for the service do not inure to the benefit of any member of the FED CO-OP's control group, or any employees of a member.

A Model Example

To provide a clearer understanding of how FED CO-OP will work, OPM has developed a simplified hypothetical example. The government decides to privatize a commercial activity which a private accounting firm determines the Government spends $1 million per year to run.

Parent Corporation determines that it could make an acceptable profit running the same operation for $700,000 per year. (Figure based on average 30 percent savings from A–76.)

It makes plans for the creation of a 100-percent-owned subsidiary company, Newco, to run the activity. Plans are also made for Newco to create an employee stock ownership plan.

Parent Corp. submits a bid to the Government for $850,000 per year because the $300,000 the Government could save if it selects Parent Corp. must be equally shared by the Government and the employees for whom the ESOP is created. ($700,000 plus half of the $300,000 savings, or $150,000, for total bid of $850,000.)

Parent Corp. wins the Government contract, and establishes Newco with sufficient working capital to operate the activity.

Newco must create and pre-fund the ESOP for the length of the contract, in this case three years. To do so it:

—Borrows from a bank $450,000 ($150,000 per year times the three year length of the contract) on a three-year loan;

—Uses the money to buy Parent Corp. stock for the ESOP.

The Newco ESOP trust is divided into various accounts for bookkeeping purposes:

—An account is established for each participating employee;

—A "suspense account" is also created.

Initially, all the Parent Corp. shares purchased by the ESOP are placed in this "suspense account."After one year, Newco makes a tax deductible contribution to the ESOP enabling it to make the first annual payment on its three-year bank loan. At this time, one-third of the suspense account stock is released to the employee accounts. The same is done for the following two years. As the suspense account is depleted all stock is allocated to employee accounts.

Conclusion

The FED CO-OP plan is a cost-cutting measure designed to provide benefits to those most affected by privatization—the Federal employees. As privatization gains support, and as the need for privatization continues to grow, alternative methods of accomplishing our goals must be examined. The Office of Personnel Management is currently seeking pilot cases to implement the FED CO-OP plan. This progress will lead, doubtless, to additional revisions of the program.

Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 87-26336 Filed 11-13-87; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Airworthiness Approval of Multi-Sensor Navigation Systems for Use in the U.S. National Airspace System (NAS) and Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability circular (AC) and request for comment.

SUMMARY: This proposed advisory circular identified as AC-20-XX, establishes an acceptable means, but not the only means, of obtaining airworthiness approval of a multi-sensor area navigation system for use under VFR (visual flight rules) and IFR (instrument flight rules) within the conterminous United States, Alaska, and surrounding U.S. waters. Like all advisory material this advisory circular is not, in itself, mandatory and does not constitute a regulation. It is issued for guidance purposes and to outline one method of compliance with airworthiness requirements. As such, the terms "shall" and "must" used in this advisory circular pertain to an applicant who chooses to follow the method presented. The guidelines provided in this proposed Advisory Circular supersede those of AC-90-45A for the equipment described.

DATE: Comments must identify the AC file number and be received on or before February 11, 1988.

ADDRESS: Send all comments on the proposed advisory circular to:

Federal Aviation Administration, Technical Analysis Branch, AWS-120, Aircraft Engineering Division, Office of Airworthiness, File No. AC-20-XX-PCD-1, 800 Independence Avenue SW., Washington, DC 20591

Or deliver comments to:

Federal Aviation Administration, Room 335, 800 Independence Avenue SW., Washington, DC 20591

FOR FURTHER INFORMATION CONTACT: Mr. Nickolus O. Rasch, Technical Analysis Branch, AWS-120, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-9569.

Comments received on the proposed advisory circular may be examined, before and after the comment closing date at Room 335, FAA Headquarters Building (FOB-10A), 800 Independence Avenue SW., Washington, DC 20591, between 8:30 a.m. and 4:30 p.m.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed AC revision listed in this notice by submitting such written data, views, or arguments as they desire to the above specified address. All communications received on or before the closing date for comments specified above will be considered by the Director of Airworthiness before issuing the final AC.

Background

The proposed AC-20-XX will include information for Airworthiness approval of a multi-sensor area navigation system for use under VFR (visual flight rules) and IFR (instrument flight rules) within the conterminous United States, Alaska, and surrounding U.S. waters.

Related Fars. Federal Aviation Regulations (FAR) Parts 23, 27, 29, 43, and 91.

Related Reading Materials. a. Federal Aviation Administration/Technical Standard Order (TSO) C115, "Area Navigation Equipment Using Multi-Sensor Inputs."

b. Radio Technical Commission for Aeronautics (RTCA), Document No. RTCA/DO-160B, "Environmental Conditions and Test Procedures for Airborne Equipment", Document No. RTCA/DO-178A, "Software Considerations in Airborne Systems and Equipment Certification", and Document No. RTCA/DO-187, "Minimum Operational Performance Standards for Airborne Area Navigation Equipment using Multi-Sensor Inputs."

c. Advisory Circular 90-82, "Random Area Navigation Routes." Advisory Circular 20-101C, "Airworthiness Approval of Omega/VLF Navigation Systems for Use in the U.S. National Airspace System and Alaska," and Advisory Circular 20-121A, "Airworthiness Approval of Airborne Loran-C Systems for Use in the U.S. National Airspace System and Alaska."

d. Advisory Circular 27-1, "Certification of Normal Category Rotorcraft." This document should be referenced to determine if considerations beyond those contained in this advisory circular are necessary when installing a multi-sensor area navigation system in a normal category rotorcraft. If necessary, AC 27-1 will address those items peculiar to rotorcraft installations.

e. Advisory Circular 29-2, "Certification of Transport Category Potorcraft." This document should be referenced to determine if considerations beyond those contained in this advisory circular are necessary when installing a multi-sensor area navigation system in a transport category rotorcraft. If necessary, AC 29-2 will address those items peculiar to transport category rotorcraft installations.

How to Obtain Copies

A copy of the proposed AC-20-XX may be obtained by contacting the person under "For Further Information Contact."

AC-20-XX references Technical Standard Order (TSO) C115, Area Navigation Equipment using Multi-Sensor Inputs." Copies of the TSO may be obtained from the Department of Transportation, Federal Aviation Administration, Office of Airworthiness, Aircraft Engineering Division, AWS-100, 800 Independence Avenue SW., Washington, DC 20591.

AC-90-82, "Random Area Navigation Routes." AC 20-101C, "Airworthiness Approval of Omega/VLF Navigation Systems for use in the U.S. National Airspace System and Alaska," and AC 20-121A, "Airworthiness Approval of Loran-C Systems for use in the U.S. National Airspace System and Alaska." Copies may be obtained from the Department of Transportation, Subsequent Distribution Unit (M-494.3), Washington, DC 20591.

AC-27-1, "Certification of Normal Category Rotorcraft," and AC-29-2, "Certification of Transport Category Rotorcraft." Copies may be ordered from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Also the proposed AC incorporates Radio Technical Commission for Aeronautics (RTCA), Document No. RTCA/DO-160B, "Environmental Conditions and Test Procedures for Airborne Equipment," Document No. RTCA/DO-178A, "Software Considerations in Airborne Systems and Equipment Certification," and Document No. RTCA/DO-187, "Minimum Operational Performance Standards for Airborne Area Navigation Equipment Using Multi-Sensor Inputs." Copies may be purchased from the RTCA Secretariat, One McPherson Square, 1425 K Street NW., Suite 500, Washington, DC 20005.

Issued in Washington, DC, on November 4, 1987.

Thomas E. McSweeny,

Manager, Aircraft Engineering Division, Office of Airworthiness.

[FR Doc. 87-26332 Filed 11-13-87; 8:45 am]

BILLING CODE 4910-13-M

Airworthiness Approval of Vertical Navigation (VNAV) Systems for use in the U.S. National Airspace System (NAS) and Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of advisory circular (AC) and request for comment.

SUMMARY: This proposed advisory circular identified as AC–20–XX, establishes an acceptable means, but not the only means, of obtaining airworthiness approval of an airborne vertical navigation system for use under VFR (visual flight rules) and IFR (instrument flight rules) within the conterminous United States, Alaska, and surrounding U.S. waters. Like all advisory material, this advisory circular is not, in itself, mandatory and does not constitute a regulation. It is issued for guidance purposes and to outline one method of compliance with airworthiness requirements. As such, the terms "shall" and "must" used in this advisory circular pertain to an applicant who chooses to follow the method presented. The guidelines provided in this proposed Advisory Circular supersede those of AC 90–45A for Omega/VLF navigation equipment described.

DATE: Comments must identify the AC file number and be received on or before March 11, 1988.

ADDRESS: Send all comments on the proposed advisory circular to:

Federal Aviation Administration, Technical Analysis Branch, AWS–120, Aircraft Engineering Division, Office of Airworthiness, File No. AC–20–XX–PCD–2, 800 Independence Avenue SW., Washington, DC 20591

Federal Aviation Administration, Room 335, 800 Independence Avenue SW., Washington, DC 20591

FOR FURTHER INFORMATION CONTACT: Mr. Nickolus O. Rasch, Technical Analysis Branch, AWS–120, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Telephone (202) 267–9569.

Comments received on the proposed advisory circular may be examined, before and after the comment closing date at Room 335, FAA Headquarters Building (FOB–10A) 800 Independence Avenue SW., Washington, DC 20591, between 8:30 a.m. and 4:30 p.m.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed AC revision listed in this notice by submitting such written data, views, or arguments as they desire to the aforementioned specified address. All communications received on or before the closing date for comments specified above will be considered by the Director of Airworthiness before issuing the final AC.

Background

The proposed AC–20–XX will include information for airworthiness approval of a vertical navigation (VNAV) system for use under VFR (visual flight rules) and IFR (instrument flight rules) within the conterminous United States, Alaska, and surrounding U.S. waters.

Related FARS. Federal Aviation Regulations (FAR) Parts 23, 25, 43, and 91.

Related Reading Materials. a. Federal Aviation Administration/Technical Standard Order (TSO C115, Area Navigation Equipment using Multi-Sensor inputs; TSO C60b, Area Navigation Equipment Using Loran-C Inputs; and TSO C120, Area Navigation Equipment Using Omega/VLF Inputs.

b. Radio Technical Commission for Aeronautics (RTCA), Document No. RTCA/DO–160B, "Environmental Conditions and Test Procedures for Airborne Equipment", Document No. RTCA/DO–178A, "Software Considerations in Airborne Systems and Equipment Certification"; RTCA/DO–187, "Minimum Operational Performance Standard for Airborne Area Navigation Equipment Using Multi-Sensor Inputs"; RTCA/DO–194, "Minimum Operational Performance Standards for Airborne Area Navigation Equipment Using Loran–C Inputs"; and RTCA/DO–190, "Minimum Operational Performance Standards for Airborne Area Navigation Equipment Using Omega/VLF Inputs".

How to Obtain Copies

A copy of the proposed AC–2–XX may be obtained by contacting the person under "For Further Information Contract."

AC–20–XX references to Technical Standard Order (TSO) C120, "Area Navigation Equipment Using Omega/VIF Inputs" and TSO C60b, "Area Navigation Equipment Using LORAN–C Inputs"; and TSO–C115, "Area Navigation Equipment Using Multi-Sensor Inputs. Copies of these TSO's may be obtained from the Department of Transportation, Federal Aviation Administration, Office of Airworthiness, Aircraft Engineering Division, AWS–100, 800 Independence Avenue SW., Washington, DC 20591.

Copies of the related RTCA documents RTCA/DO–160B, "Environmental Conditions and Test Procedures for Airborne Equipment;" RTCA/DO–178A, "Software Considerations in Airborne Systems and Equipment Certification;" RTCA/DO–187, "Minimum Operational Performance Standards for Airborne Area Navigation Equipment Using Multi-Sensor Inputs;" RTCA/DO–190 "Minimum Operational Performance Standards for Airborne Area Navigation Equipment Using Omega/VLF Inputs;" andRTCA/DO–194 "Minimum Operational Performance Standards for Airborne Area Navigation Equipment Using LORAN–C Inputs;" may be purchased from the RTCA Secretariat, One McPherson Square, 1425 K Street NW., Suite 500, Washington, DC 20005.

Issued in Washington, DC, on November 4, 1987.

Thomas E. McSweeny,

Manager, Aircraft Engineering Division, Office of Airworthiness.

[FR Doc. 87–26322 Filed 11–13–87; 8:45 am]

BILLING CODE 4910–13–M

Emergency Evacuation Slides, Ramps, and Slide/Raft Combinations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed revision to technical standard order (TSO) and request for comments.

SUMMARY: The proposed revision to TSO–C69a prescribes the minimum performance standards that emergency evacuation slides, ramps, and slide/raft combinations must meet to be identified with the marking "TSO–C69b."

DATE: Comments must identify the TSO file number and be received on or before December 31, 1987

ADDRESS: Send all comments on the proposed technical standard order to:

Technical Analysis Branch, AWS–120, Aircraft Engineering Division, Office of Airworthiness—File No. TSO–C69b, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591

Or deliver comments to:

Federal Aviation Administration, Room 335, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Technical Analysis Branch, AWS–120, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

Comments received on the proposed technical standard order may be examined, before and after the comment closing date, in Room 335, FAA Headquarters Building (FOB–10A), 800 Independence Avenue SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they desire to the above specified address. All communications received on or before the closing date for comments specified above will be considered by the Director of Airworthiness before issuing the final TSO.

Background

The proposed revisions to TSO–C69a will include new and revised material test requirements, new slide inflation times, and elimination of the requirement for a structural back support on the slide/raft combination.

An announcement of the availability of proposed TSO–C69b to incorporate provisions for quick-release girts and handholds for emergency evacuation slides was published in the **Federal Register** for public comment on June 27, 1986. The comment period closed October 17, 1986, and after careful scrutiny of relevant comments, TSO–C69b was finalized for issuance. However, it was understood at that time that certain additional important safety related changes were being developed for TSO–C69 incorporation by the Design and Certification working group of the Emergency Evacuation Task Force. This task force was formed at the FAA sponsored public technical conference in Seattle, Washington, from September 3–5, 1985, to discuss related emergency evacuation topics. The group was chartered to review and discuss existing emergency evacuation regulations under Parts 25 and 121 and recommend regulatory and nonregulatory changes. Since it was understood that the group recommendations were forthcoming, it was considered prudent to delay issuance of the final version of TSO–C69b until the FAA had the opportunity to seek public comment on the additional proposed changes. Then, after assessment of these comments, the new change could be consolidated with the already appraised changes into the final version of TSO–C69b. There is no need to republish the entire proposed TSO–C69b since these additional proposals do not affect the previously appraised proposal.

The Proposed Revisions

Accordingly, the Federal Aviation Administration proposes to revise Technical Standard Order (TSO) C69a as follows:

Appendix 1. Federal Aviation Administration Standard for Emergency Evacuation Slides, Ramps, and Slide Raft Combinations

Part I: Inflatable Emergency Evacuation Slides and Overwing Exit Ramps

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3. *Materials and Workmanship.*

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3.1.4.1 *Strength.* Coated fabrics used for these applications must conform to the following minimum strength after aging:

Tensile Strength (Grab Test)
Warm 190 pounds/inch
Fill 190 pounds/inch
Tear Strength (Trapezoid Test or Tongue Test)
Surfaces except walking/sliding surface: 13 x 13 pounds/inch (minimum)
Walking/Sliding surface: 56 x 56 pounds/inch (minimum)
Puncture Strength—Walking/Sliding surface 67 pounds force

* * * * * * *

3.1.4.4 *Hydrolysis.* Pressure holding coated fabrics, including seams, must be shown to be resistant to hydrolysis, as follows. It must be shown by tests specified in 5.0 that the porosity of the basic pressure holding material is not increased as a result of the material being subjected to hydrolysis conditioning. Seam strength and coat adhesion must not be reduced more than 10% as a result of hydrolysis conditioning.

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4.13 *Inflation.*

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4.14 *Inflation Time.* Except for wing-to-ground slides, the device must be automatically erected in 6 seconds after actuation of inflation controls is begun. The wing-to-ground slide, or wing-to-ground portion of a ramp/slide combination, must be erected in not more than 10 seconds after actuation of the inflation controls.

* * * * *

5. *Material Tests.* The material tests required in paragraph 3.0 (Part I) of this standard must be conducted in accordance with the following test methods or other approved equivalent methods:

Test required	*Tests method*	
	Federal test method standard No. 191A dated July 20, 1978	Other test method
Accelerated Age	Method 5850	Per Note (1).
Tensile Strength (Grab Test)	Method 5100	
Tear Strength (Trapezoid Test)	Method 5136(4)	
Tear Strength (Tongue Test)	Method 5134 (Alternate to Trapezoid Test. See 3.1.4.1)	
Ply Adhesion	Method 5960	
Coat Adhesion	Method 5970	
Permeability	Method 5460(4)	Per Note (5).
Seam Shear Strength		Per Note (2).
Seam Peel Strength	Method 5960	Per Note (3).
Puncture Strength		Per Note (6).
Hydrolysis Conditioning		Per Note (7).
Porosity Test (Hydrolysis)		Per Note (8).

Notes

(1) Samples for the accelerated aging tests must be exposed to a temperature of 158±5 degrees F for not less than 168 hours. After exposure, the samples must be allowed to cool to 70±2 degrees for neither less than 16 hours nor more than 96 hours before determining their physical properties in accordance with 3.1 (Part I) of this standard.

(2) Each sample shall consist of two strips 2 inches maximum width by 5 inches maximum length bonded together with an overlap ¾ inches maximum. The free ends must be placed in the testing machines described in Method 5100 and separated at rate of 12±0.5 inches per minute. The average value of two samples must be reported. Samples may be multilayered as required to provide adequate strength to ensure against premature material failure.

(3) Separation rate must be 2.0 to 2.5 inches per minute.

(4) Federal Test Method Standard No. 191 in effect December 31, 1968.

(5) ASTM Method D1434–82, Procedure V, approved July 30, 1982, is an acceptable alternate method.

(6) The fabric shall be tested in a specimen holder constructed in accordance with Figure 1. The fabric shall be clamped tightly in the specimen holder to present a wrinkle-free

surface and prevent slippage during the test. A piercing instrument with its end conforming to Figure 1 shall be forced against the fabric at approximately the center of the area enclosed by the specimen holder. The force required to puncture the specimen shall not be less than the specified 67 pounds.

(7) Each sample shall be exposed to a temperature of 58 °C and a relative humidity of 95 percent for a period of 50 days.

(8) Porosity testing conducted for hydrolysis resistance shall be conducted with the test apparatus specified in Appendix 2, or an equivalent test method approved by an aircraft certification office. Note Section 3 of Appendix 2 for specimen size and mounting information (3.1, 3.7). Tests should be conducted at slide nominal operating pressure for a duration of 30 minutes. Porosity is indicated by a loss in chamber pressure during testing. Pressure loss for material specimens after hydrolysis conditioning shall not be greater than the pressure loss for the material before conditioning.

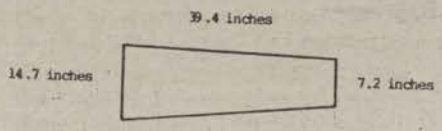
* * * * *

Part II: Inflatable Emergency Evacuation Slide/Raft Combinations

* * * * *

4.1.1 *Capacity, Alternate Rating Methods.* In lieu of the rated capacity as determined by paragraph 4.1 (Part II) of this standard, one of the following methods may be used:

4.1.1.1 The rated capacity of a slide/raft combination for the raft mode may be determined by the number of occupant seating spaces which can be accommodated within the occupiable area exclusive of the perimeter structure (such as buoyancy tubes) without an overlapping of the occupant seating spaces. The occupant seating space may not be less than the following size:



4.1.1.2 The rated capacity of the slide/raft may be determined on the basis of a controlled pool or fresh water demonstration which includes conditions prescribed under paragraph 5.3.1 (Part II) of this standard and the following:

4.1.1.2.1 The sitting area on the slide/raft deck may not be less than 3.0 feet ^{2} person.

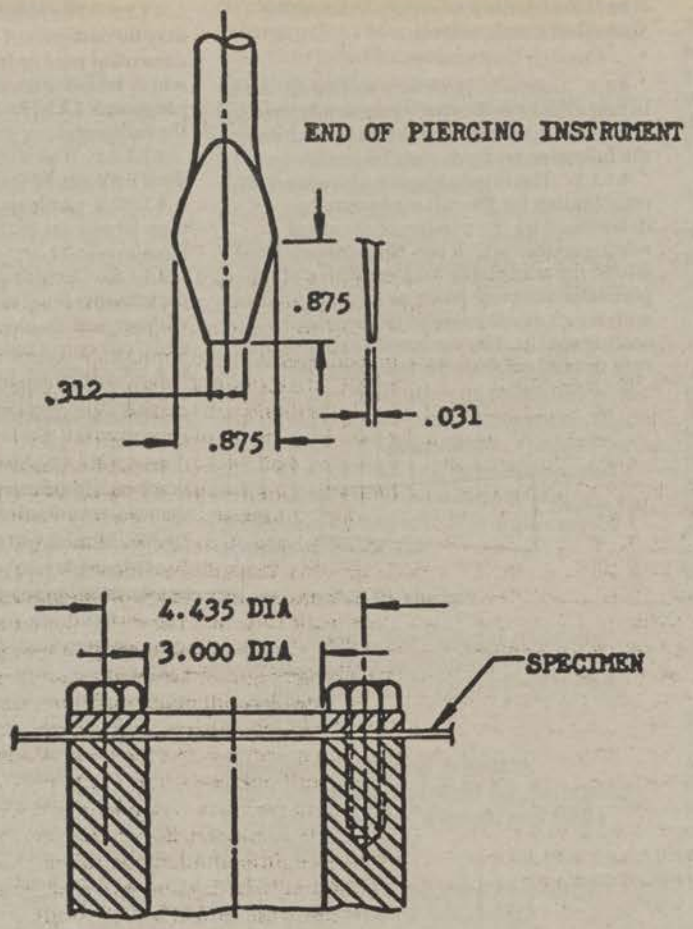
4.1.1.2.2 At least 30 percent but no more than 50 percent of the participants must be female.

4.1.1.23 Except as provided below, all participants must select their sitting space without outside placement assistance. A slide/raft commander, acting in the capacity of a crewmember, may direct occupant seating to the extent necessary to achieve reasonable weight distribution within the slide/raft.

4.1.1.2.4 All participants must not have practiced, rehearsed, or have had the demonstration procedures described to them within the past 6 months.

* * * * *

BILLING CODE 4910-13-M



SPECIMEN HOLDER

DIMENSION IN INCHES

FIGURE 1. PIERCING INSTRUMENT AND SPECIMEN HOLDER

BILLING CODE 4910-13-C

How to Obtain Copies

A copy of TSO–C69a may be obtained by contacting the person under "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Washington, DC, on October 28, 1987.

John K. McGrath,

Acting Manager, Aircraft Engineering Division, Office of Airworthiness.

[FR Doc. 87–26323 Filed 11–13–87; 8:45 am]

BILLING CODE 4910–13–M

Urban Mass Transportation Administration

Availability of Draft Supplemental Environmental Impact Statement/ Subsequent Environmental Impact Report (SEIS/SEIR) and Public Hearing for the Los Angeles Rail Rapid Transit Project (Metro Rail)

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of availability of Draft Supplemental Environmental Impact Statement/Draft Subsequent Environmental Impact Report and Public Hearing.

SUMMARY: The Urban Mass Transportation Administration (UMTA) and the Southern California Rapid Transit District (SCRTD) have completed a SEIS/SEIR for the Los Angeles Metro Rail project. This new document will augment the November 1983 Final Environmental Impact Report and the December 1983 Final Environmental Impact Statement for the Los Angeles Rail Rapid Transit (Metro Rail) Project, an 18.6-mile rail rapid transit system. This SEIS/SEIR is necessitated by proposed changes to a segment of the presently adopted project arising out of the Congressional mandate which requires that no part of the Metro Rail project will tunnel into or through any zone designated as a potential risk zone for subsurface gas concentrations. According to section 1502.9(c)(1) of the National Environmental Policy Act of 1969 and section 15162(a) of the California Environmental Quality Act Guidelines, an SEIS/SEIR will be prepared when there have been significant changes in the proposed action. The purpose of this supplemental report is to present alternatives for a portion of the originally proposed all subway alignment. A public hearing is also scheduled for December 18, 1987, to offer opportunity for the public to comment on the alternative alignments and their respective environmental impacts.

FOR FURTHER INFORMATION CONTACT: Ms. Carmen C. Clark, UMTA Region IX, 211 Main Street, Suite 1160, San Francisco, California 94105; telephone (415) 974–7317 or Mr. Nadeem Tahir, P.E., Manager, Environmental Engineering, Southern California Rapid Transit District, 425 South Main Street, Los Angeles, California 90013; telephone (213) 972–6439.

SUPPLEMENTARY INFORMATION:

Purpose: The purpose of the SEIS/SEIR is to study alternative alignments for that portion of the Metro Rail Project which is between the Minimum Operable Segment (MOS–1, a 4.4-mile project, from the yard and shops near Union Station to the Wilshire/Alvarado Station) and the Universal City station. The alignment from Universal City to the North Hollywood terminus and the project identified as MOS–1 remain unchanged. Based on staff analysis and public and agency input, six alternatives have been considered in the SEIS/SEIR. These include five build alternatives and a revised Null Alternative which includes the MOS–1 project now under construction.

Project Description: The project is the segment of the Metro Rail Project which is beyond MOS–1 and ends at the Universal City Station. It consists of the realignment of the segment to avoid tunneling through potential risk zones. The new alignment may be in subway or aerial configuration. The technology will be the same conventional, high capacity, high speed rail rapid transit as in the currently adopted project.

Project Location and Alternatives: The project is located in Los Angeles, California, in an area defined as the Regional Core or central part of the urbanized area.

Currently, six alternatives are under consideration. These are briefly described as follows:

- The Null Alternative consists of the segment of Metro Rail now under construction from the yards and shops near Union Station to the Wilshire/ Alvarado Station, and certain bus and TSM improvements planned for the study area.
- Alignment 1 is all subway with tunneled portions on Wilshire Boulevard to Western Avenue, on Vermont Avenue, Hollywood Boulevard, Highland Avenue and Lankershim Boulevard.
- Alignment 2 is partly in subway on Wilshire Boulevard to Western Avenue, on Vermont Avenue, Hollywood Boulevard Highland Avenue, and Lankershim Boulevard, with aerial segments along Wilshire Boulevard, Vermont Avenue and Hollywood Boulevard.
- Alignment 3 is in subway on Wilshire Boulevard, Crenshaw Avenue and Pico Boulevard to San Vicente Boulevard, and Highland Avenue, with aerial and subway segments along Vermont Avenue and on Hollywood Boulevard.
- Alignment 4 is partly in subway on Wilshire Boulevard to Western Avenue, on Vermont Avenue, Sunset Boulevard, Highland Avenue, and Lankershim Boulevard, with aerial segments along Wilshire Boulevard, Vermont Avenue and Sunset Boulevard.
- Alignment 5 is in subway on Wilshire Boulevard to Western Avenue, and on Western Avenue, Sunset Boulevard, Highland Avenue and Lankershim Boulevard, with an aerial segment on Wilshire Boulevard from Western Avenue to Fairfax Avenue.

Availability of the Draft SEIS/SEIR: Copies of the Draft SEIS/SEIR and the 1983 FEIS are available effective November 17, 1987, at:

RTD Library and Information Center, 5th Floor, 425 South Main Street, Los Angeles, CA 90013

City of Los Angeles Municipal Reference Library, City Hall East, Room 530, 20 North Main Street, Los Angeles, CA 90013

You may obtain a copy of the Draft SEIS/SEIR by calling the RTD Manager of Environmental Engineering at (213) 972–6439. Many civic and community organizations and government agencies are being mailed copies directly.

Public Hearing: The Rapid Transit Committee of the Board of Directors of the RTD will hold a public hearing for the purpose of receiving testimony on the Draft SEIS/SEIR. The hearing is set for 10:00 a.m., December 18, 1987, in the RTD Board Room, Second Floor, 425 South Main Street, Los Angeles.

How to Participate: The public is invited to participate in the review of the SEIS/SEIR. You may submit your comments on the document in writing or in person. Comments will be received until January 2, 1988.

Written Comments: Please send your written response to: Mr. Nadeem Tahir, P.E., Manager Environmental Engineering, Southern California Rapid Transit District, 425 South Main Street, Los Angeles, California 90013, Telephone: (213) 972–6439 or Ms. Carmen Clark, Urban Mass Transportation Administration, Region IX, 211 Main Street, Suite 1160, San

Francisco, CA 94105, Telephone: (415) 974–7317.

Brigid Hynes-Cherin,

Regional Administrator.

[FR Doc. 87–26349 Filed 11–13–87; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 87–139]

Customhouse Broker's License; Cancellation; Cancellation of Customhouse Broker's License Nos. 5930 and 5816

Notice is hereby given that the Commissioner of Customs, on November 4, 1987, pursuant to section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641), and Part 111 of the Customs Regulations, as amended (19 CFR Part 111), cancelled with prejudice the individual customhouse broker's licenses No. 5930 and 5816 issued to Katherine J. Segall on October 2, 1978 and May 15, 1978 for the Customs Districts of San Diego and San Francisco, California. The decision is effective as of November 4, 1987.

William von Raab,

Commissioner of Customs.

[FR Doc. 87–26333 Filed 11–13–87; 8:45 am]

BILLING CODE 4820–02–M

[T.D. 87–138]

Recordation of Trade Name: "Browning"

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of recordation.

SUMMARY: On August 3, 1987, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "BROWNING" was published in the **Federal Register** (52 FR 28773). The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation and received not later than October 2, 1987. No responses were received in opposition to the notice.

Accordingly, as provided in § 133.14, Customs Regulations (19 CFR 133.14), the name "BROWNING" is recorded as the trade name used by Browning, a corporation organized under the laws of the State of Utah, located at Route 1, Morgan, Utah 84050. The trade name is used in connection with the following merchandise manufactured in Belgium, France, England, Italy, West Germany, Portugal and Canada: hunting, camping and sporting goods equipment and accessories and sportswear including shotguns, rifles, black powder rifles, pistols, pistol cases, pistol holsters, flexible gun cases, fitted luggage cases, recoil pads, sight beads, chokes for shotguns, scope mount rings and bases, rifle slings and swivels, magazine plugs, gun oil, gun cleaners, gun safes, pocket knives, knife sharpeners, fishing and hunting knives, knife sheaths, knife honing oil, sleeping bags, coats, jackets, parkas, vests, insulated hunting suits, hoods, rain jackets, rain coats, rain pants, rain suits, rain parkas, underwear, hunting trousers, hunting vests, gloves, mittens, shooting gloves, hats, shirts, belts, belt buckles, insulated boots, waterproof boots, boot laces, boot dressings, socks, wool fleece bedding, archery bows, cross bows, archery gloves, shooting tabs, arm guards, quivers, nontelescopic bow sights and slings, bow cases, target faces, bow strings, fishing rods, rod blanks and cases, hand-pulled golf carts, golf clubs, golf bags and golf club head covers.

DATE: November 16, 1987.

FOR FURTHER INFORMATION CONTACT: Beatrice E. Moore, Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue, NW., Washington, DC 20229 (202–566–5765).

Dated: November 5, 1987.

Jerry C. Laderberg,

Acting Chief, Entry, Licensing and Restricted Merchandise Branch.

[FR Doc. 87–26334 Filed 11–13–87; 8:45 am]

BILLING CODE 4820–02–M

Fiscal Service

[Dept. Circ. 570, 1987 Rev., Supp. No. 6]

Surety Companies Acceptable on Federal Bonds; National Reinsurance Corp.; Change of Name

The National Reinsurance Corporation, a Delaware corporation, has formally changed its name to National Reinsurance Corporation, effective September 24, 1981. The Company was last listed as an acceptable surety on Federal bonds at 51 FR 23946, July 1, 1987. Federal bond-approving officers should annotate their reference copies of the Treasury Department Circular 570, 1987 Revision, to reflect this change.

A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued, effective September 24, 1981, under Sections 9304 to 9308, Title 31, of the United States Code to National Reinsurance Corporation, Wilmington, Delaware. This Certificate replaces the Certificate of Authority issued to the Company under its former name. The underwriting limitation of $14,961,000 established for the Company as of July 1, 1987, remains unchanged until the July 1, 1988, Revision is published.

Certificates of Authority expire on June 30, each year, unless revoked sooner. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1, in Department Circular 570, with details as to Underwriting Limitations, areas in which licensed to transact surety business, and other information.

Copies of the Circular may be obtained from the Department of Treasury, Financial Management Service, Finance Division, Surety Bond Branch, Washington, DC 20226, or by calling (202) 634–2381.

Mitchell A. Levine,

Assistant Commissioner, Comptroller Financial Management Service.

Dated: November 5, 1987.

[FR Doc. 87–26321 Filed 11–13–87; 8:45 am]

BILLING CODE 4810–35–M

Internal Revenue Service

1988 Electronic/Magnetic Media Filing Test; Form 5500 Returns

AGENCY: Internal Revenue Service, Treasury.

ACTION: Forms 5500 (C and R) Electronic/magnetic media filing test.

SUMMARY: The Internal Revenue Service is planning to conduct a pilot program during the 1988 filing period for Employee Benefit Plan Returns/Reports (Forms 5500–C and 5500–R with Schedules A, B, P and SSA) to be filed electronically or via magnetic media. This pilot program will be available without geographic limitation, although all processing will be centralized at the Internal Revenue Service Center in Cincinnati, OH. Participants must have secured prior authorization from the Service. Tax practitioners, plan administrators, automated preparers, software companies, service bureaus and other interested parties can obtain copies of the draft revenue procedures by writing or calling the Service; these draft procedures will be available by November 30, 1987. Comments on the program are welcome.

DATE: Expressions of interest are requested by December 31, 1987. Applications to participate in the pilot must be received by March 31, 1988.

ADDRESS: Assistant Commissioner (Planning, Finance and Research), Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attn: Technology Research Office). Telephone 202–376–0388 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The Internal Revenue Service is receiving an increasing volume of computer prepared returns, and is exploring methods to utilize the flexibility provided by computer preparation to achieve efficiencies of processing. The Service has recently completed a successful pilot test of electronic filing of individual tax returns (Forms 1040, 1040A and 1040EZ) and electronic and magnetic tape filing of Forms 1041 and 1065. The Internal Revenue Service (IRS) is planning to expand the pilot test to encompass the filing of Form 5500–C and 5500–R returns (plan years beginning in 1987) via electronic transmission or on magnetic media. These returns will be filed beginning in June, 1988.

Electronic and magnetic media filing eliminates most of the manual processes required by IRS to handle paper documents, which will increase the quality of the final product, speed up the processing and reduce unnecessary correspondence. For those filers who prepare the Form 5500 series returns and are interested in participating in the test, the draft revenue procedure should be available by November 30, 1987. Generally, the revenue procedure will call for the transmission, either electronically or via magnetic media, of all the data currently supplied on the paper return, including those schedules which usually accompany the return. Additionally, filers will be required to transmit to the IRS, subsequent to the transmission of an electronic or magnetic media return, a separate form with certain key information from the return and the signatures of the preparer and the employer, plan sponsor and/or plan administrator. A consolidated form has been approved by IRS enabling preparers/filers to transmit the required information, covering multiple returns, with a single set of signatures.

John D. Johnson,

Assistant Commissioner (Planning, Finance and Research).

[FR Doc. 87–26538 Filed 11–13–87; 12:39 pm]

BILLING CODE 4830–01–M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 220
Monday, November 16, 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).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, November 18, 1987.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

1. Compliance Status Report

The staff will brief the Commission on a Compliance Status Report.

2. Enforcement Matter OS# 4057

The staff will brief the Commission on Enforcement Matter OS# 4057.

3. Enforcement Matter OS# 3270

The Commission will consider Enforcement Matter OS# 3270.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301–492–6800.

Sheldon D. Butts,
Deputy Secretary.
November 12, 1987.

[FR Doc. 87–26439 Filed 11–12–87; 12:54 pm]
BILLING CODE 6355–01–M

FEDERAL MARITIME COMMISSION

TIME AND DATE: 10:00 a.m.—November 20, 1987.

PLACE: Hearing Room One—1100 L Street, NW., Washington, DC 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Exemption of Foreign-to-Foreign Agreements; Proposed Rulemaking.
2. Petition for Rulemaking Filed By the International Council of Containership Operators Regarding Service Contract Provisions; Most Favored Shipper and Liquidated Damage Clauses.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, *Secretary*, (202) 523–5725.

Joseph C. Polking,
Secretary.

[FR Doc. 87–26454 Filed 11–12–87; 3:01 pm]
BILLING CODE 6730–01–M

LEGAL SERVICES CORPORATION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published November 12, 1987, 52 FR 43432.

PREVIOUS ANNOUNCED TIME AND DATE OF MEETING: A closed Executive Session will commence at 8:00 p.m. on Thursday, November 19, and continue until 11:00 p.m. (Executive Room, A, Third Floor). The open meeting will commence at 11:00 a.m. on Friday, November 20, 1987, and continue until 12:30 p.m. It will reconvene at 1:30 p.m. and continue until all official business is completed.

EXPLANATION OF CHANGE: Item number five of the previously announced agenda, (Annual Grant Process and Competitive Bidding), has been deleted.

CONTACT PERSON FOR MORE INFORMATION: R. Michael Gibeault, Acting Publications Administrator, (202) 863–1839.

Date Issued: November 12, 1987.

R. Michael Gibeault,
Acting Publications Administrator.

[FR Doc. 87–26452 Filed 11–12–87; 2:44 pm]
BILLING CODE 6820–35–M

Corrections

Federal Register
Vol. 52, No. 220
Monday, November 16, 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.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 3, 4, and 140

Relief From Regulation as a Commodity Trading Advisor for Certain Persons; Relief From Compliance With Subpart B of Part 4 for Certain Commodity Pool Operators; Disclosure Documents and Annual Reports

Correction

In rule document 87-25280 beginning on page 41975 in the issue of Monday, November 2, 1987, make the following corrections:

1. On page 41979, in the second column, after footnote 23 insert footnote 24 to read as follows:

[24]*See* Division of Trading and Markets Interpretative Letter No. 87-1, n. 16, *supra.*

2. On the same page, in the third column, before footnote 26 insert footnote 25 to read as follows:

[25]*See, e.g.*, Division of Trading and Markets Interpretative Letter no. 87-3, Comm. Fut. L. Rep. (CCH) ¶ 23,730 (July 14, 1987), wherein the Division found that in operating a trust fund an insurance company would come within the spirit and intent of § 4.5. Thus, assuming all other conditions are met, the IA/CTA of that fund would be eligible for relief under § 4.14(a)(8).

§ 4.14 [Corrected]

3. On page 41985, in the third column, in § 4.14(a)(8)(i)(B), "business or providing" should read "business of providing".

4. On the same page, in the same column, in § 4.14(a)(8)(iii)(B), "person qualified" should read "person qualifies".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 85 and 600

[FRL-3176-8]

Air Pollution Control; Importation of Nonconforming Motor Vehicles and Motor Vehicle Engines

Correction

In rule document 87-21941 beginning on page 36136 in the issue of Friday, September 25, 1987, make the following corrections:

1. On page 36152, in the second column, in footnote 21, in the third line, "mode" should read "model".

§ 85.1511 [Corrected]

2. On page 36162, in the second column, in § 85.1511(d), in the eighth line, insert "not" after "may".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 141 and 178

Entry of Consolidated Shipments

Correction

In proposed rule document 87-25470 beginning on page 42310 in the issue of Wednesday, November 4, 1987, make the following corrections:

1. On page 42310, in the second column, under **SUMMARY**, in the 10th line, "consolidated" was misspelled.

2. On the same page, in the third column, under **SUPPLEMENTARY INFORMATION**, in the last paragraph, in the sixth line, "usually" was misspelled.

3. On page 42311, in the first column, in the eighth line, after "service" insert "or".

4. On the same page, in the second column, in the first complete paragraph, in the tenth line, "Now" should read "Nor".

5. On page 42313, in the first column, in the 17th line, "importers'"should begin with a lower-case "i".

§ 178.2 [Corrected]

6. On page 42314, in the second column, in § 178.2, in the table, transfer "shipments by common carrier" from under the heading "OMB Control No." and insert under the heading "Description" after "consolidated".

BILLING CODE 1505-01-D

Federal Register

Monday
November 16, 1987

Part II

Department of Transportation

Research and Special Programs Administration

California Department of Motor Vehicles; Application for Inconsistency Ruling; Public Notice and Invitation to Comment

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. IRA-42]

California Department of Motor Vehicles; Application for Inconsistency Ruling

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Public notice and invitation to comment.

SUMMARY: California Department of Motor Vehicles has applied for an administrative ruling determining whether its regulations on training requirements for operators of vehicles carrying hazardous materials are inconsistent with the Hazardous Materials Transportation Act (HMTA), and the Hazardous Materials Regulations (HMR) issued thereunder and, therefore, preempted under section 112(a) of the HMTA.

DATES: Comments received on or before December 31, 1987, and rebuttal comments received on or before February 19, 1988, will be considered before an administrative ruling is issued by the Director of the Office of Hazardous Materials Transportation. Rebuttal comments may discuss only those issues raised by comments received during the initial comment period and may not discuss new issues.

ADDRESSES: The application and any comment received may be reviewed in the Dockets Unit, Research and Special Programs Administration, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC, 20590. Comments and rebuttal comments on the application may be submitted to the Dockets Unit at the above address, and should include the Docket Number, IRA-42. Three copies are requested. A copy of each comment and rebuttal comment must also be sent to Mr. A.A. Pierce, Director, California Dept. of Motor Vehicles, P.O. Box 932328, Sacramento, CA 94232-3280, and that fact certified to at the time comment is submitted to the Dockets Unit. (The following format is suggested: "I hereby certify that copies of this comment have been sent to Mr. Pierce at the address specified in the Federal Register.")

FOR FURTHER INFORMATION CONTACT: Edward H. Bonekemper, III, Office of the Chief Counsel, Research and Special Programs Administration, 400 7th Street, SW., Washington, DC 20590, telephone 202-366-4401.

SUPPLEMENTARY INFORMATION:

1. Background

The HMTA (49 App. U.S.C. 1801 et seq.) at section 112(a) (49 App. U.S.C. 1811(a)) expressly preempts "any requirement, of a State or political subdivision thereof, which is inconsistent with any requirement" of the HMTA or the HMR issued thereunder.

Procedural regulations implementing section 112(a) of the HMTA and providing for the issuance of inconsistency rulings are codified at 49 CFR 107.201 through 107.211. An inconsistency ruling is an advisory administrative opinion as to the relationship between a state or political subdivision requirement and a requirement of the HMTA or HMR. Section 107.209(c) sets forth the following factors which are considered in determining whether a state or local requirement is inconsistent:

(1) Whether compliance with both the state or local requirement and the HMTA or HMR is possible (the "dual compliance" test); and

(2) The extent to which the state or local requirement is an obstacle to the accomplishment and execution of the HMTA and the HMR (the "obstacle" test).

Inconsistency rulings do not address issues of preemption under the Commerce Clause of the Constitution or under statutes other than the HMTA.

2. The Application for Inconsistency Ruling

On October 13, 1987, A.A. Pierce, Director of the California Department of Motor Vehicles, filed an inconsistency ruling application. That application requested a ruling concerning the consistency of §§ 100.00 through 100.11 of Title 13, Chapter 1 of the California Administrative Code with the HMTA and the HMR.

Those regulations were approved by California's Office of Administrative Law and filed with the Secretary of State on September 15, 1987. They are reprinted as Appendix A to this Notice.

The following is a brief synopsis of those regulations:

Section 100.00 provides that Federal standards and requirements govern in the event of a conflict between these regulations and Federal statutes or regulations.

Section 100.01 contains definitions of cargo tank, tank configuration, combinations of vehicles with any tank configuration, and bulk liquid load.

Section 100.02 contains requirements for out-of-state drivers. These include requirements that such drivers have received the training specified in § 100.07 applicable to the hazardous material or waste being carried and carry either an employer notice to that effect or a California Non-Resident Special Driver Certificate authorizing carriage of the hazardous material or waste being carried.

Section 100.03 provides for certificate renewals.

Section 100.04 provides for exceptions to the certificate program.

Section 100.05 specifies bases on which the Department may refuse to issue, or may suspend or revoke, a certificate.

Section 100.06 establishes a program for employer certification of training for hazardous waste, hazardous materials or bulk liquid loads.

Section 100.07 sets forth the detailed training requirements for drivers hauling hazardous wastes, hazardous materials, and bulk liquids in combination.

Section 100.08 describes the requirements for employer-issued certificates of driving experience.

Section 100.09 authorizes an employer to file a joint application if it meets all the requirements of Sections 100.06 through 100.08.

Section 100.10 contains recordkeeping and other requirements for employers authorized to issue certificates of training or certificates of experience.

Section 100.11 sets forth the effective dates for these regulations.

The application requests comparisons of those regulations for consistency with Section 112(a) of the HMTA and §§ 171.8, 177.800 and 177.823 of the HMR. Comparisons will be made of the California regulations with those and any other relevant provisions of the HMTA and the HMR.

The application also requests comparisons of those regulations with 49 CFR 391.4, 391.11, 391.15, 391.25, 391.35, 391.41, 391.43, 391.45, 391.51, and 391.65. Those Federal Motor Carrier Safety Regulations (FMCSR) are made applicable to highway carriers of hazardous materials by § 177.804 of the HMR. However, when the FMCSR were incorporated by reference into the HMR, 43 FR 4858 (Feb. 6, 1978), such action was not intended to change the intent, scope of application, or preemptive effects of the FMCSR as they existed under their original statutory authority (Interstate Commerce Act, 49 App. U.S.C. 304). Therefore, RSPA will consider the preemptive effects of 49 CFR Parts 391, 392, 393, and 396 only to the extent those effects existed prior to their incorporation by reference into the HMR. Inconsistency Ruling 2 (IR-2), 44 FR 75566, 75568 (Dec. 20, 1979). 49 CFR 390.30, part of the incorporation by reference, sets out the standards to be used in considering preemption under the FMCSR:

Except as otherwise specifically indicated, Parts 390 through 397 of this subchapter are not intended to preclude States or subdivisions thereof from establishing or enforcing States or local laws relating to safety, the compliance with which would not

prevent full compliance with these regulations by the person subject thereto.

The standards thus established are essentially identical to the first test used to determine preemption under the HMTA; i.e., the dual compliance test. Therefore, a state or local requirement concerning a subject addressed by the cited FMCSR provisions is preempted only if compliance with it and a provision of the FMCSR is impossible. That standard will be used in comparing the California regulations with the FMCSR.

Finally, California's application requests comparisons of its regulations with certain provisions of the Commercial Motor Vehicle Safety Act of 1986. Such comparisons cannot and will not be made in the context of an inconsistency ruling, the scope of which is limited to preemption issues under the HMTA and the HMR. The State should address those issues to the Federal Highway Administration.

3. Public Comment

Comments should be restricted to the issue of whether section 100.00 through 100.11 of Title 13, Chapter 1 of the California Administrative Code are inconsistent with the HMTA and the HMR (including the FMCSR provisions incorporated by reference). Persons intending to comment on the application should examine the complete application in the RSPA Dockets Branch, including the text of those regulations (Appendix A to this Notice), and the procedures governing the Department's consideration of applications for inconsistency rulings (49 CFR 107.201–107.211).

Alan I. Roberts,

Director, Office of Hazardous Materials.

Issued in Washington, DC, on November 9, 1987.

Appendix A—Order to Adopt Regulations of the Department of Motor Vehicles Title 13, California Administrative Code, Chapter 1

Express Terms

Notice is hereby given that the Department of Motor Vehicles, pursuant to the authority vested by section 3100, Vehicle Code, hereby adopts regulations in Title 13, California Administrative Code, Chapter 1.

The content of this adoption of regulations is set forth in express terms as required by Government Code Section 11346.5(b).

Notice is also given that the provisions of sections 100.00 through 100.07, 100.09 and the provisions of section 100.10 pertaining to certificates of driver training shall become operative only as specified in section 100.11 and after timely notice by the Department of Motor Vehicles.

Special Driver Certificates

100.00 Federal Standards and Requirements

To the extent that the provisions of this article conflict with Federal statutes or regulations, the Federal standards and requirements shall govern the activities otherwise addressed in this article.

Note: Authority cited: Section 3100, California Vehicle Code. Reference: Sections 12804.1 and 12804.3, California Vehicle Code and Title 49, United States Code, section 1811.

100.01 Definitions

As used in this Article and California Vehicle Code sections 3100 et seq. and 12804.3, the following definitions shall apply:

(a) *Cargo Tank.* "Cargo tank" means any tank(s) permanently attached to, or a structural part of, a vehicle; or any bulk liquid or compressed gas packaging that is not permanently attached to a vehicle and by reason of its size, construction, or method of attachment is filled or emptied without removal from the vehicle. The term does not include tanks that furnish fuel for propulsion of the towing vehicle, or auxiliary equipment on which they are installed, or any packaging fabricated to cylinder specifications.

(b) *Tank Configuration.* A "tank configuration" is any cargo tank having a volumetric capacity of more than 1,000 gallons that can be used for the transportation of liquids. Tank configuration does not include a tank used to carry fuel necessary for the opertion of the vehicle or equipment attached to a vehicle.

(c) *Combinations of Vehicle with any Tank Configuration.* "Combinations of vehicles with any tank configuration" are any combination of vehicles, when one or more of the vehicles in the combination is designed to transport a liquid in a cargo tank having a volumetric capacity of more than 1,000 gallons.

(d) *Bulk Liquid Load.* A non-solid, non-gaseous solution, mixture, suspension, or wetted solid in mixture or suspension that is subject to surge during transport within a structure designed to contain such materials having a volumetric capacity of more than 1,000 gallons. Examples of liquids are milk, gasoline, ketchup, molasses, cherries in syrup, and liquid petroleum gas.

Note: Authority Cited: Section 3100, California Vehicle Code. Reference: Section 12804.3, California Vehicle Code, and Title 49, Code of Federal Regulations, § 171.8.

100.02 Requirements For Out-of-State Drivers

A driver from another state, territory, or country is authorized to drive in California without the drivers certificate required by Vehicle Code section 12804.1 or 12804.3 providing the driver meets all of the following requirements:

(a) Has a valid driver's license of the class appropriate for the operation of the vehicle, issued by the state, territory or country in which the driver resides.

(b) Has met the physical qualification standards required of motor vehicle drivers by the Federal Highway Administration of the United States Department of Transportation as set forth in the Title 49, Code of Federal Regulations, § 391.41, and has in his or her possession a medical certificate approved by the Federal Highway Administration and issued within the last two years.

(c) Has met the training requirements set forth in section 100.07 of these regulations applicable to the type of load being transported (hazardous material, hazardous waste) and/or type of vehicle being operated.

(d) Is not disqualified for such a certificate on the basis of his or her driving record or medical condition under the Vehicle Code Sections referenced below.

(e) Has in his or her possession one of the following:

(1) A valid Non-Resident Special Certificate issued by this department to a non-California licensed driver that authorizes the driver to transport the type of load being transported (hazardous materials, hazardous waste) and/or to operate that particular type of vehicle; or

(2) Notice from his or her employing motor carrier on a form approved by the department indicating that the driver has met the tralning requirements specified in (c) above. Such notice must be signed by the driver and the employer under penalty of perjury. The notice will be valid for 30 days from the date it is signed by the employer.

(A) When such notice is issued by an employer, the employer must at the same time send written notice of the issuance to this department. No driver shall be permitted to operate in California a vehicle subject to this Article beyond the 30-day validity period of the notice, unless he/she has obtained from this department the Non-

Resident Special Driver Certificate specified in 1 above.

(B) The department, upon receipt of notice specified in Subsection A, above, shall update its records and issue Non-Resident Special Driver Certificates to qualified drivers. Such certificates shall be mailed to the drivers.

Note.—Authority Cited: Section 3100, California Vehicle Code. Reference: Sections 3100, 12500, 12502, 12804.1, 12804.3, 12805, 12809, 12810, 12810.5, 13205, 13352, 13352.5, 13353, 13355, 13357, 13359, 13361, 13363, 13365, 13552, 13553, 13954, 14252, 15020, 15023, 15024, 23157, 23160, 23161, 23166, California Vehicle Code and Title 49 Code of Federal Regulations § 391.41.

100.03 Renewal of Certificate

(a) The Non-Resident Special Driver Certificate issued to a non-California licensed driver shall expire 4 years from the date of issuance. Requirements to renew the certificate shall be the same as those to obtain an original certificate.

(b) The certificate issued to California-licensed drivers shall expire with the California license. Except for changes in training requirements noted in section 100.07, requirements to renew the certificate shall be the same as for an original certificate.

Note.—Authority Cited: Section 3100, California Vehicle Code. Reference: Sections 12804.1 and 12804.3, California Vehicle Code.

100.04 Exceptions To The Certificate Program

All drivers of vehicles specified in California Vehicle Code section 12804.1 or 12804.3 shall obtain special driver certificates, except those persons exempted pursuant to section 25163 of the Health and Safety Code, persons operating a vehicle in an emergency situation at the direction of a peace officer pursuant to Vehicle Code Section 2800 and persons meeting the requirements of out-of-state drivers set forth in section 100.02 of this Article.

Note.—Authority Cited: Section 3100, California Vehicle Code. Reference: Sections 12804.1, 12804.3, California Vehicle Code, Section 25163 Health & Safety Code.

100.05 Refusal, Revocation, and Hearing

(a) The department may refuse to issue a certificate to any applicant under this article when the department is satisfied that any of the following exist:

(1) The applicant does not satisfy the requirements of section 100.02, or California Vehicle Code section 12804.1 or 12804.3.

(2) As a result of the applicant's driving record, the applicant would be deemed to be a "Negligent Operator" under the provisions of Vehicle Code section 12810.5(a).

(3) The applicant previously held a certificate issued under this article which has been revoked or suspended for cause and the cause for such suspension or revocation still exists.

(4) The applicant's driving record would be cause for suspension or revocation of the certificate and/or driving privilege under the provisions of the California Vehicle Code.

(5) The department has grounds for refusing to issue any license to the applicant under California Vehicle Code sections 12805, 12807, and 12809, or would have cause for such refusal if the driver were otherwise required to be licensed under the provisions of the California Vehicle Code.

(6) The applicant would not currently qualify for a medical certificate approved by the Federal Highway Administration.

(b) The department may suspend or revoke a certificate issued under this article when the operator poses a risk to public health or safety or for any other cause which exists under these regulations, or the laws of California, regardless of when such cause arises which would either permit or require the department to refuse to issue such a certificate.

(c) The department may suspend or revoke the driving privilege of a non-California driver subject to the provisions of California Vehicle Code section 3100 and these regulations, when the driver does not or no longer meets the requirements set forth in section 100.02.

(d) The following provisions apply to a driver's right to a hearing:

(1) Whenever the department determines upon investigation or reexaminaton that the driver does not meet the qualifications for a certificate under this article and proposes to suspend or revoke the certificate privilege, notice and an opportunity to be heard shall be provided to the driver before such action is taken. Notice shall be given in accordance with procedures set forth in Vehicle Code sections 13950, 13951, and 13952.

(2) The department may suspend or revoke the certificate privilege in accordance with the procedure set forth in Vehicle Code section 13953 when such action is required for the safety of the driver or other persons upon the highway.

(e) Procedures pertaining to hearing requests and the conduct of hearings shall be governed by the provisions of Division 6, Chapter 3, of the California Vehicle Code.

Note.—Authority Cited: Section 3100, California Vehicle Code. Reference: 3100(d), 12804, 12804.1, 12804.3, 12805, 12807, 12809, 12810.5, 13950–14112, California Vehicle Code.

Section 100.06 Employer Certification Of Training For Hazardous Waste, Hazardous Materials, Or Bulk Liquid Loads

(a) *Certificate of Driver Training.* The department may waive the written test for an applicant for a hazardous waste, hazardous material, or bulk liquid load in combination certificate when the applicant presents a valid certificate of driver training issued by the employer of the applicant, if the employer has been authorized by the department to issue such certificates. Such certificates of driver training shall be signed by the employer or designated representative under penalty of perjury. One or more designated representative(s) may be identified by the employer in the application for employer number, which contains the designated representative(s) name(s), business address(es), and the signature(s) of the designated represenatative(s).

(b) *Qualifications For Employer Number.* The department shall issue an employer number to an employer, authorizing the employer to issue training certificates pursuant to this Article when the department is satisfied that the employer has met the qualifications set forth in this Article. The employer number shall remain valid for one year from date of issuance, unless earlier cancelled, suspended, or revoked by the department. The employer number is subject to annual renewal. The department shall require compliance with this section to renew the employer number. In order to qualify for an employer number, the employer must meet all of the following requirements:

(1) Provide for require that its drivers particiate in a driver testing and training program, to include an actual road test for each new driver employed. The road test must include the following: pre-trip safety inspection, placing in operation the vehicles or combination of the class for which the driver is issued the certificate, use of the vehicles' controls and emergency equipment, operating the vehicle or combination in traffic (on public access roads and while passing other vehicles), turning the vehicle or combination, braking, slowing the vehicle or combination by means other than braking, and backing (if applicable) and parking the vehicle or combination.

(2) Provide documentation (such as a training schedule or contract with an

entity which provides training) with the application for the employer number to show that the employer will provide the driver testing and training required above and in section 100.07.

(3) Provide a current lesson plan for DMV monitoring purposes with each original application. Renewal applications must include any changes to the lesson plan.

(4) File an application, signed by the employer under penalty of perjury, with the department on forms furnished by the department.

(5) Require drivers, on an on-going basis, to operate vehicles subject to the certificate requirements of section 12804.1 and/or 12804.3 applicable to the type of training certificate the employer wishes to issue. In addition, employers who qualify drivers for the bulk liquid load in combination certificate must ensure that the required on-the-road training and testing described above and in section 100.07 are conducted in a Class 1 combination of tank vehicles used to transport bulk liquid loads.

Note.— Authority Cited: Section 3100, California Vehicle Code. Reference: 12804, 12804.1, 12804.3, California Vehicle Code.

100.07 Training Requirements

(a) Hazardous Waste. Employers who have been authorized by the department to issue certificates of training for drivers hauling hazardous wastes must provide training that meets or exceeds the following minimum requirements before issuing the certificate of training to any driver applying for an original certificate.

(1) Course Content:

(A) Products handled (including proper description(s) and characteristics)

(B) Documentation Requirements

1. Proper national uniform hazardous waste manifest form used
2. Required entries and signatures
3. Location during transportation and commerce.

(C) Packaging and Container Requirements

1. Marking
2. Labeling
3. Placarding

(D) Loading/Handling (characteristics and compatibility)

(E) Incident reporting and Emergency procedures

(F) State and Federal regulations applicable to hazardous waste vehicle/container operation

(G) Characteristics and safe operating requirements of hazardous wastes vehicles/containers (including routing, driving and parking)

(H) Pre-operation inspection of vehicle/container (and written report when required)

(2) For drivers renewing a hazardous waste certificate, the training required above may be met by on-the-job instruction. However, the employer must keep records of such instruction as outlined in section 100.10(a).

(b) Hazardous Materials. Employers who have been authorized by the department to issue certificates of training for drivers transporting hazardous materials must provide training that meets or exceeds the following minimum requirements before issuing the certificate of training to any driver applying for an original certificate.

(1) Course Content

(A) State and Federal regulations governing hazardous materials vehicle/container operation

(B) Pre-trip inspection of vehicle and load

(C) Shipping paper requirements:

1. proper basic description sequence and format
   a. Proper shipping name
   b. Hazard class
   c. Identification number
2. required description and entries
3. location during transportation and commerce

(D) Packaging and container requirements:

1. General packaging condition
2. Proper marking and labeling

(E) Loading and unloading:

1. Proper handling methods for different containers
2. Mixed load compatibility
3. Load securement
4. Load accessibility

(F) Placarding requirements:

1. Proper placards use
2. Placards displayed correctly

(G) Driving and parking rules applicable to hazardous material transportation

(H) Incident reporting and emergency procedures

(2) For drivers renewing a hazardous materials certificate, the above required training may be met by on-the-job instruction. However, the employer must keep records of such instruction as outlined in section 100.10(a).

(c) When training a driver to meet the requirements for both a hazardous waste and a hazardous materials certificate, training requirements which are identical for the two certificates need not be repeated. The training time required for the second certificate can be shortened as long as the driver receives the required training in the subject outline at least once.

(d) Bulk Liquid Loads in Combination. Employers who have been authorized by the department to issue certificates of training to drivers for the operation of combinations of vehicles with any tank configuration, which are required to be operated by Class 1 drivers and which are transporting bulk liquid loads, must provide training that meets or exceeds the following minimum requirements before issuing the certificates of training to any driver.

(1) Course Content

(A) Pre-trip inspection of vehicle and load

(B) Loading and unloading (operation of associated equipment)

(C) Special vehicle handling characteristics, to include:

1. Vehicle instability
2. High center of gravity
3. Fluid load subject to surge
4. Effect of curves on stability
5. Effect of braking on stability
6. Effect of speed of vehicle control
7. Dangers associated with evasive or sudden maneuvers
8. Danger commonly associated with maneuvering through curves, especially on and off ramps
9. Characteristic stability differences between clean bore, baffled, or multi-compartmented tanks
10. Effects of partial loads on basic vehicle stability

(2) In addition to completing the above training, the driver must demonstrate proficiency in operating the vehicle as required by section 1229, of Title 13, California Administrative Code.

(3) For drivers renewing a certificate to transport bulk liquid loads in combination, the training requirements above may be met by on-the-job instruction. However, the employer must keep records of such instructions as outlined in section 100.10(a).

Note.—Authority Cited: Section 3100, California Vehicle Code. Reference: 12804, 12804.1, 12804.3, California Vehicle Code, and Title 49 Code of Federal Regulations, § 172.200–172.204, 173.24, 177.800(a), 177.823, 177.855–177.861, 397.1–397.3, 397.7(b), 397.9(a), 397.11–397.19.

100.08 Certificate of Driving Experience

(a) The department may waive the driving test for a Class 1 or 2 applicant, when the applicant has first qualified for a Class 3 driver license, has met the other examination requirements for the license for which he or she is applying

as specified in California Vehicle Code section 12804, and presents a valid certificate of driving experience issued by the employer of the applicant, if the employer has been authorized by the department to issue such certificates.

(b) Such certificates of driving experience shall be signed by the employer or designated representative under penalty or perjury. One or more designated representative(s) may be identified by the employer in the application for employer number which states the designated representative(s) name(s), business address(es), and contains the signature(s) of the designated representative(s).

(c) The employer shall be engaged in an activity which includes operation of Class 1 or 2 motor vehicles as defined in section 12804 of the California Vehicle Code and show proof that a minimum of five (5) such vehicles, of which at least two (2) are power units, are available for the training and testing of drivers as required by Section 100.08(d) of these regulations. Proof may be submitted in the form of license plate numbers of vehicles currently registered and which show the employer's or company's name on the Department of Motor Vehicles registration records as registered owner or lessee or a copy of current lease documents if the employer or company is not shown on the Department of Motor Vehicles registration records. Labor leasing companies may submit as proof a contractual agreement with client(s) showing that vehicles of the specified classification(s) are available to the employer for the testing and training of drivers as required by section 100.08(d) of these regulations.

(d) The employer shall provide for, and require that its drivers participate in, a driver testing and training program which includes a driving test for each new driver employed. The road test shall include the following operations: pre-trip safety inspection, placing the vehicles or combination of the class for when he/she is to be issued the certificate in operation, use of the vehicles' controls and emergency equipment, operating the vehicle or combination in traffic (on public roadways and while passing other vehicles), turning the vehicle or combination, braking, slowing the vehicle or combination by means other than braking; and backing and parking the vehicle or combination.

Note.—Authority cited: Section 3100, California Vehicle Code. Reference: Section 12804, California Vehicle Code.

100.09 Employers Qualifying for Certification for Class 1 and/or Class 2 Operation and Special Certificate Approval

Employers who meet all of the qualifications contained in sections 100.06, 100.07 and 100.08 may file a single application for authorization to certify to the training and testing required for Class 1 and/or 2 driving and the training required for the transport of hazardous waste, hazardous materials, and/or transport of bulk liquid loads in combination. There shall be a single fee for such multiple applications.

Note.—Authority cited: Section 3100, California Vehicle Code. Reference: Sections 12804, 12804.1 and 12804.3, California Vehicle Code.

100.10 Additional Employer Requirements

All employers authorized to issue Certificates of Training and/or Certificates of Experience shall be subject to the following provisions:

(a) Records. Every employer issued an employer number under this Article shall keep records showing information on the training given each student issued a certificate of training. The employer shall also keep records on the training given each student who is issued a Certificate of Experience based on training. The employer shall keep these records for the length of the driver's employment and a minimum of three years from the date the driver is released from employment and shall make the records open to inspection by the department during normal business hours. Employers based in California shall keep these records at their primary place of business or designated locations specified on their application for employer number. Employers based outside California shall keep these records at California terminals or other designated locations in California. If the employer has no California terminal, these records will be kept at their primary place of business or other designated locations specified on their application for employer number.

These records must include the following:

(1) The full name and address of the person providing instruction.

(2) The full name, address, and driver license number (including state of issuance) of each driver given instruction.

(3) The particular type of instruction given (i.e., hazardous waste, hazardous materials, bulk liquid loads in combination, Class 1, or Class 2) and the date or dates of instruction.

(4) The subjects covered and the total number of hours of instruction.

(5) The results of any driver testing conducted in conjunction with the training.

(b) Refusal to Issue Employer Number. The department may refuse to issue an employer number to any applicant when the department is satisfied that any of the following conditions exist:

(1) The applicant previously held an employer number which was revoked or suspended for cause and the cause for such suspension or revocation still exists.

(2) The applicant does not meet the qualifications set forth in this Article for the type of Certificate of Training or Certificate of Experience authority being requested.

(c) Right to Hearing. Upon refusal of the department to issue an employer number under this chapter, the applicant shall be entitled to a hearing before the Director or the Director's representative, upon written request submitted to the department within 60 days after notice of refusal. The hearing shall be conducted pursuant to Division 6, Chapter 3, Articles 2 and 3, of the California Vehicle Code.

(d) Reapplication. An employer whose employer number has been revoked may reapply for an employer number after a period of not less than one year has elapsed from the effective date of the decision revoking the employer number.

(e) Monitoring Training. Department personnel may monitor any training class without advance notice.

(f) Suspension or Revocation of Employer Number. The department, after notice and hearing, may suspend or revoke any employer number issued under the provisions of this Article when any of the following circumstances exist:

(1) The employer no longer meets a requirement that is a prerequisite to obtaining an employer number under this Article.

(2) The employer fails to comply with a requirement of this Article or violates a provision of this Article.

(g) Temporary Suspension. The department may, pending a hearing, temporarily suspend the employer number of an employer for a period of not more than 30 days, if the director finds that the public interest so requires. In that case, a hearing shall be held and a decision thereon issued within 30 days after issuance of the notice of temporary suspension.

(h) The following provisions apply to notices and hearings before suspension or revocation:

(1) Every holder of an employer number is entitled to notice and hearing prior to suspension or revocation of the employer number by the department, except that the department shall immediately suspend the employer number for engaging in fraudulent practices with respect to activity governed by this Article or for engaging in activities within the purview of this article in such a manner that immediate suspension is required for the safety of persons upon the highway.

(2) The notice and hearings provided for in these regulations shall be in accordance with, and governed by Division 6, Chapter 3, Articles 2 and 3 of the California Vehicle Code.

(i) Cancellation of Employer Number. The department may cancel any employer number issued under the provisions of this Article if the employer number was issued in error or has been voluntarily surrendered to the department for cancellation. Whenever any employer number is cancelled, it shall be without prejudice. However, the department may cancel an employer number and still retain jurisdiction to institute proceedings for suspension or revocation of such number. Any employer whose employer number has been cancelled may immediately apply for an employer number.

Note. Authority cited: Section 3100, California Vehicle Code. Reference: Sections 12804, 12804.1, 12804.3 and 13950 through 14112, California Vehicle Code.

§ 100.11 Implementation

(a) Certificates of Driving Experience. Section 100.08 and those provisions of sections 100.10 pertaining to certificates of driving experience shall be effective 30 days after the date these regulations are filed with the Secretary of State.

(b) Certificates of Driver Training. Sections 100.00 through 100.07, 100.09, and those provisions of section 100.10 pertaining to certificates of driver training shall become operative 180 calendar days after determination by the United States Department of Transportation that these regulations are not preempted by federal law and/or federal regulations adopted pursuant thereto.

Note. Authority cited: Section 3100, California Vehicle Code. Reference: Sections 12804, 12804.1, and 12804.3, California Vehicle Code. Title 49, United States Code, section 1811 and Title 49, Code of Federal Regulations, §§ 107.201 through 107.2211.

Operative Date: Upon adoption of these regulations, the Department of Motor Vehicles shall seek administrative review of same, pursuant to the Federal statute and regulations referenced above. The provisions of Sections 100.00 through 100.07, 100.09 and the provisions of section 100.10 pertaining to certificates of driver training shall become operative only as specified in section 100.11, above, and after timely notice by the Department of Motor Vehicles.

[FR Doc. 87-26350 Filed 11-13-87; 8:45 am]
BILLING CODE 4910-60-M

federal register

Monday
November 16, 1987

Part III

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

November 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 November 1, 1987, of 19 deferrals contained in the two special messages of FY 1988. There have been no rescissions proposed. These messages were transmitted to the Congress on October 1, and 29, 1987.

Rescissions (Table A and Attachment A)

As of November 1, 1987, there were no rescission proposals pending before the Congress.

Deferrals (Table B and Attachment B)

As of October 1, 1987, $1,868.0 million in 1987 budget authority was being deferred from obligation. Attachment B shows the history and status of each deferral reported during FY 1988.

Information From Special Messages

The special messages containing information on the deferrals covered by this cumulative report are printed in the Federal Registers listed below:

Vol. 52, FR p. 37739, Thursday, October 8, 1987

Vol. 52, FR p. 42400, Wednesday, November 4, 1987

James C. Miller III,

Director.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1988 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	0
Accepted by the Congress	0
Rejected by the Congress	0
Pending before the Congress	0

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TABLE B

STATUS OF 1988 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President	1,873.0
Routine Executive releases through November 1, 1987 (OMB/Agency releases of $5.0 million and cumulative adjustments of $0)	-5.0
Overturned by the Congress	0
Currently before the Congress	1,868.0

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1988

As of November 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
NONE								

Attachment B - Status of Deferrals - Fiscal Year 1988

As of November 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 11-1-87
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund	D88-1	40,000		10-1-87	5,000				35,000
Special Assistance for Central America									
Promotion of stability and security in Central America	D88-2	1,000		10-1-87					1,000
DEPARTMENT OF AGRICULTURE									
Forest Service									
Expenses, brush disposal	D88-3	120,425		10-1-87					120,425
Timber salvage sales	D88-4	34,841		10-1-87					34,841
Cooperative work	D88-5	628,025		10-1-87					628,025
Gifts, donations, and bequests for forest and rangeland research	D88-6	104		10-1-87					104
DEPARTMENT OF DEFENSE - MILITARY									
Military Construction									
Military construction, Defense	D88-7	900		10-1-87					900
Family Housing									
Family housing, Defense	D88-8	51,015		10-1-87					51,015
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation, Defense	D88-9	636		10-1-87					636
DEPARTMENT OF ENERGY									
Power Marketing Administration									
Alaska Power Administration, Operation and maintenance	D88-14	120		10-29-87					120
Southeastern Power Administration, Operation and maintenance	D88-15	2,000		10-29-87					2,000

Attachment B - Status of Deferrals - Fiscal Year 1988

As of November 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 11-1-87
Southwestern Power Administration, Operation and maintenance	D88-16	6,000		10-29-87					6,000
Western Area Power Administration, Construction, rehabilitation, operation and maintenance	D88-17	774		10-29-87					774
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Office of Assistant Secretary for Health Scientific activities overseas (special foreign currency program)	D88-18	2,391		10-29-87					2,391
Social Security Administration Limitation on administrative expenses (construction)	D88-10	6,171		10-1-87					6,171
DEPARTMENT OF JUSTICE									
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H.J. Res. 394/Pub. L. 100-162

Making further continuing appropriations for the fiscal year 1988, and for other purposes. (Nov. 10, 1987; 101 Stat. 903; 1 page) Price: $1.00

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

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[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1987. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1985 to June 30, 1986. The CFR volume issued as of July 1, 1985 should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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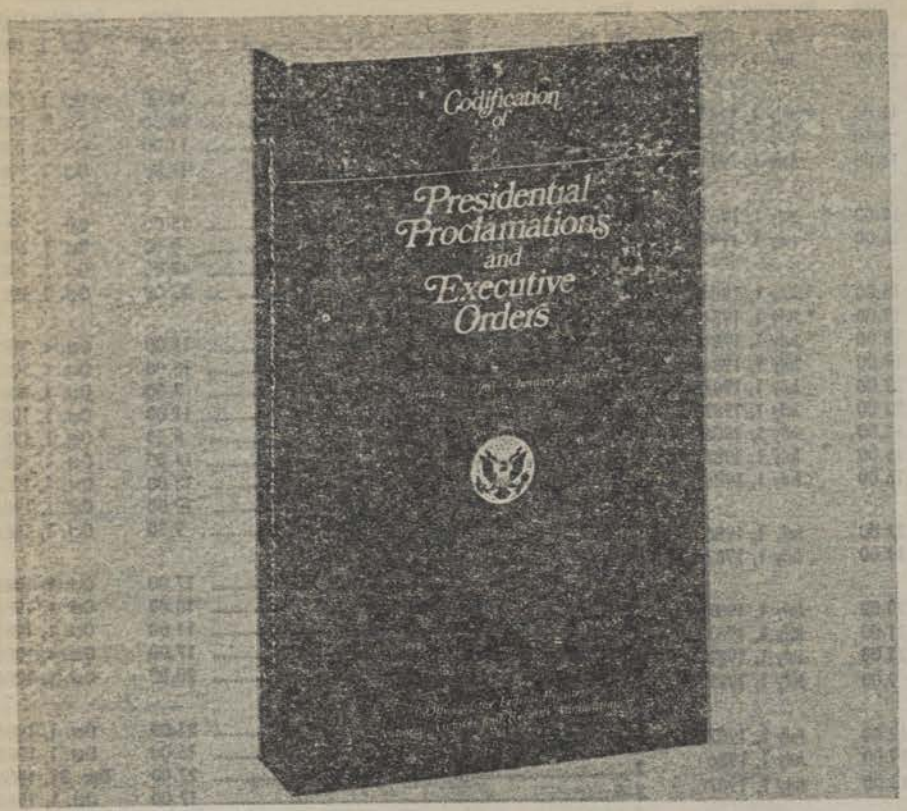

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(or) COUNTRY

PLEASE PRINT OR TYPE

(Revised 10-15-85)