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Friday
November 27, 1987

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

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

WHO: The Office of the Federal Register.

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

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

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

DENVER, CO

WHEN: December 15; at 9 a.m.
WHERE: Room 239, Federal Building, 1961 Stout Street, Denver, CO.
RESERVATIONS: Call the Denver Federal Information Center, 303–844–6575

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DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 368 and 399

[Docket No. 71149-7249]

Export Controls on Iran; Expansion of Foreign Policy Controls

AGENCY: Export Administration; International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Iran-Iraq war and Iran's unyielding attitude against a peaceful resolution to that conflict pose a serious and direct threat to the strategic interests of the United States. In light of recent hostile Iranian actions directed at U.S. and neutral shipping in international waters, the Department of Commerce is expanding foreign policy controls on exports to Iran. Specifically, exports to Iran of certain marine and battlefield-useful commodities on the Commodity Control List will be subject to foreign policy controls. All exports to Iran of these commodities will require a validated license; such licenses will generally be denied.

This regulation is issued in consultation with the Department of State and in compliance with the requirements of the Export Administration Act of 1979, as amended (the Act) (50 U.S.C. app. 2401 *et seq.*). Section 6 of the Act requires that a report be submitted to Congress whenever new foreign policy controls are imposed; such a report was submitted by the Acting Secretary of Commerce on October 21, 1987. These expanded foreign policy controls do not affect transactions under contract or commodities licensed for shipment from the United States before October 22, 1987.

EFFECTIVE DATE: This rule is effective November 27, 1987.

FOR FURTHER INFORMATION CONTACT: Glen Schroeder, Country Policy Branch, Export Administration, Telephone: (202) 377-3160.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. Because this rule concerns a foreign affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under Control Number 0625-0001.

3. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign affairs function of the United States. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) and the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to John Black, Office of Technology and Policy Analysis, Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Parts 385 and 399

Exports, Reporting and recordkeeping requirements.

Accordingly, Parts 385 and 399 of the Export Administration Regulations are amended as follows:

1. The authority citation for 15 CFR Parts 385 and 399 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97-145 of December 29, 1981 and by Pub. L. 99-64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

PART 385—[AMENDED]

2. In § 385.4, paragraph (d)(3) is revised to read as follows:

§ 385.4 Country Groups T & V.

* * * * *

(d) *People's Democratic Republic of Yemen, Syria, and Iran.* * * *

(3)(i) For Iran, a validated license is required for foreign policy purposes for the export of the following items:

(A) All commodities and technical data subject to national security controls if the export is destined to a military end-user or for military end-use;

(B) All aircraft and helicopters and related parts and components, as defined in CCL entries 1460A, 2460A, 4460B, 5460F, 6460F, 1485A, 6498F, 1501A(a), (b)(1), and (c)(1) and 6598F;

(c) All mobile communications equipment and specially designed parts as defined in CCL entries 1502A(b), 1516A, 1517A, 1531A, and 6598F;

(D) All boats, including inflatable boats, and specially designed parts as defined in CCL entries 1416A and 6498F;

(E) All off-highway wheel tractors as defined in CCL entry 6490F;

(F) All large diesel engines and specially designed parts that can be used to power tank transporters, as defined in CCL entries 6394F, 2406A, and 6498F;

(G) All portable electric generators and specially designed parts as defined in CCL entry 6294F;

(H) All marine and submarine engines and equipment and specially designed parts as defined in CCL entries 1372A, 6394F, 5406C, 2409A, 1431A, 4431B, 5431C, 1460A, and 6494F;

(I) All surface effect and hydrofoil vessels and equipment as defined in CCL entry 1416(a), (b), (c), and (h);

(J) All acoustic underwater detection equipment and specially designed parts therefore as defined in CCL entries 2409A, 1510A, 5510C, and 6598F;

(K) All naval equipment as defined in CCL entry 2409A;

(L) All underwater camera equipment and specially designed parts as defined in CCL entries 1417A, 6498F, and 6598F;

(M) All submersible systems and specially designed parts as defined in CCL entries 1417A, 1418A, 2418A, 6498F, and 1526A(a);

(N) All pressurized aircraft breathing equipment and specially designed parts as defined in CCL entries 2410A and 6994F;

(O) All sonar navigation equipment as defined in CCL entry 5510C;

(P) All electronic test equipment and specially designed parts as defined in CCL entries 1529A, 1531A, 1533A, 1584A, and 6598F;

(Q) All cryptographic equipment and specially designed parts as defined in CCL entries 1527A and 6598F; and

(R) All items defined in CCL entries 2414A, 1520A, 1526A, 1537A, 1555A, and 2913A.

(ii) Applications for export to Iran of commodities and technical data subject to these controls will generally be denied.

(A) However, applications may be considered on a case by case basis if the transaction involves the export or reexport of goods or technical data under a contract that was in effect before:

(*1*) January 23, 1984, in the case of helicopters over 10,000 lbs. empty-weight, aircraft valued at $3 million or more each, or national security controlled items identified in paragraphs (d)(3)(i) (A) or (B) of this section and valued at $7 million or more; or

(*2*) September 28, 1984, in the case of marine outboard engines with a horsepower of 45 or more and all other commodities or technical data identified in paragraphs (d)(3)(i) (A) or (B) of this section, except aircraft parts and components defined in CCL entries 6498F or 6598F.

(B) Applications will not be denied under this § 385.4(d)(3) if the transaction involves the export or reexport of goods or technical data under a contract that was in effect before October 22, 1987, in the case of all other commodities.

(C) Applications may be considered favorably on a case-by-case basis if:

(*1*) The transaction involves the reexport to Iran of items where Iran was not the intended ultimate destination at the time of the original export from the United States, if:

(*i*) In the case of helicopters over 10,000 lbs. empty-weight, aircraft valued at $3 million or more each, or national security controlled items identified in paragraphs (d)(3)(i) (A) or (B) of this section and valued at $7 million or more, the export from the U.S. occurred prior to January 23, 1984;

(*ii*) In the case of marine outboard engines with a horseposer of 45 or more and all other commodities or technical data identified in paragraphs (d)(3)(i) (A) or (B) of this section, except aircraft parts and components defined in CCL entries 6498F or 6598F, the export from the U.S. occurred prior to September 28, 1984; or

(*iii*) In the case of all other commodities, the export from the U.S. occurred prior to November 27, 1987;

(*2*) The U.S. content of foreign-produced commodities is 20% or less by value; or

(*3*) The commodities will be used for humanitarian purposes.

Applicants who wish such factors to be considered in reviewing their license applications must submit adequate documentation demonstrating the existence of the pre-existing contract, the date of export from the United States, or the value of the U.S. content.

(iii) The reexport provisions of 15 CFR Part 374 and the provisions of § 376.12 do not apply to the foreign policy controls of § 385.4(d)(3) for commodities defined in CCL entries 6294F, 6394F, 5406C, 5431C, 6490F, 6498F, 5510C, 6598F or 6994F. However, the export of these commodities from the United States to any destination with knowledge that they will be reexported, directly or indirectly, in whole or in part, to Iran is prohibited without a validated license.

PART 399—[AMENDED]

Supplement No. 1 to § 399.1 [Amended]

3. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 2 (Electrical and Power Generating Equipment), a new ECCN is added between 4261B and 6299G, reading as follows:

6294F Portable electric generators and specially designed parts.

Controls for ECCN 6294F

Unit: Report in "$ value."

Validated License Required: Country Groups S and Z and Iran.

GLV $ Value Limit: $0.

Processing Code: TE.

Reason for Control: Foreign policy.

Special Licenses Available: None.

Special South Africa and Namibia Controls: A validated license is required for export or reexport to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations, or for use in servicing equipment owned, controlled or used by or for these entities. See §385.4(a).

4. In Supplement No. 1 to §399.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), a new ECCN is added between ECCN 1391A and 5398F, reading as follows:

6394F Diesel engines for tractors, mobile machines and equipment, and mobile industrial applications of continuous brake horsepower of 400 BHP (298 kW) or greater (performance based on SAE J1349 standard conditions of 100 kPa and 25° C), n.e.s.; other marine engines, n.e.s.; and specially designed parts for the above engines.

Controls for ECCN 6394F

Unit: Report in "$ value."

Validated License Required: Country Groups S and Z and Iran.

GLV $ Value Limit: $0.

Processing Code: TE.

Reason for Control: Foreign policy.

Special Licenses Available: None.

Special South Africa and Namibia Controls: A validated license is required for export or reexport to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations, or for use in servicing equipment owned, controlled or used by or for these entities. See §385.4(a).

5. In Supplement No. 1 to §399.1 (the Commodity Control List), Commodity Group 4 (Transportation Equipment), ECCN 5406C and ECCN 5431C are amended by adding, "Iran," between "Afghanistan" and "and the People's Republic of China" in the *Validated License Required* paragraph and by adding: "foreign policy" immediately following "National security" in the *Reason for Control* paragraph.

6. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity

Group 4 (Transportation Equipment), ECCN 6490F is amended by adding "and Iran" immediately following "SZ" in the *Validated License Required* paragraph.

7. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 4 (Transportation Equipment), the heading of ECCN 6494F is revised to read as follows:

36494F Other marine engines, both inboard and outboard, n.e.s.; and specially designed parts.

* * * * *

8. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 4 (Transportation Equipment), a new ECCN 6498F is added between ECCN 6494F and ECCN 6499G, reading as follows:

64698F Other aircraft parts and components, n.e.s.; other boats, including inflatable boats, n.e.s.; other diesel engines for trucks, tractors, and automotive applications of continuous brake horsepower of 400 BHP (298 kW) or greater (performance based on SAE J1349 standard conditions of 100 kPa and 25° C) n.e.s.; other underwater camera equipment, n.e.s.; other submersible systems, n.e.s.; and specially designed parts for the above equipment.

Controls for ECCN 6498F

Unit: Report in "$ value."

Validated License Required: Country Groups S and Z and Iran.

GLV $ Value Limit: $0.

Processing Code: EE.

Reason for Control: Foreign policy.

Special Licenses Available: None.

Special South Africa and Namibia Controls: A validated license is required for export or reexport to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations, or for use in servicing equipment owned, controlled, or used by or for these entities. See § 385.4(a).

9. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 5510C is amended by adding, "Iran," between "Afghanistan" and "and the People's Republic of China" in the *Validated License Required* paragraph and by adding; "foreign policy" immediately following "National security" in the *Reason for Control* paragraph.

10. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), a new ECCN 6598F is added between ECCN 5597B and 6599G, reading as follows:

6598F Other navigation, direction finding, radar, and airborne communication equipment, including their parts and components, n.e.s.; other mobile communications equipment, n.e.s.; other marine or terrestrial acoustic equipment capable of detecting or locating underwater objects or features or positioning surface vessels or underwater vehicles, n.e.s.; other underwater camera equipment, n.e.s.; other electronic test equipment, n.e.s.; other cryptographic equipment, n.e.s.; and specially designed parts for the above equipment.

Controls for ECCN 6568F

Unit: Report in "$ value."

Validated License Required: Country Groups S and Z and Iran.

GLV $ Value Limit: $0.

Processing Code: EE.

Reason for Control: Foreign policy.

Special Licenses Available: None.

Special South Africa and Namibia Controls: A validated license is required for export or reexport to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations, or for use in servicing equipment owned, controlled, or used by or for these entities. See § 385.4(a).

11. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 9 (Miscellaneous), a new ECCN 6994F is added between ECCN 2913A and 4996B, reading as follows:

6994F Other pressurized aircraft breathing equipment, n.e.s.; and specially designed parts.

Controls for ECCN 6994F

Unit: Report in "$ value."

Validated License Required: Country Groups S and Z and Iran.

GLV $ Value Limit: $0.

Processing Code: TE.

Reason for Control: Foreign policy.

Special Licenses Available: None.

Special South Africa and Namibia Controls: A validated license is required for export or reexport to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations, or for use in servicing equipment owned, controlled, or used by or for these entities. See § 385.4(a).

Dated: November 23, 1987.

Vincent F. DeCain,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 87-27306 Filed 11-25-87; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Progesterone and Estradiol Benzoate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the current labeling approved for the use of Syntex Agribusiness' new animal drug application (NADA) providing for the use of progesterone and estradiol benzoate in combination in subcutaneous ear implants for growth promotion and feed efficiency in steers. FDA is also amending the regulation to indicate that use of the drug reflects the conclusions of the National Academy of Sciences/National Research Council (NAS/NRC) evaluation of the product.

EFFECTIVE DATE: November 27, 1987.

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

SUPPLEMENTARY INFORMATION: Syntex Agribusiness, Inc., 3401 Hillview Ave., Palo Alto, CA 94304, is sponsor of NADA 9-576 which provides for use of Synovex® S (progesterone and estradiol benzoate) in an ear implant for growth promotion and feed efficiency in steers. The firm noted that in the **Federal Register** of July 24, 1984 (49 FR 29777), FDA amended the regulations in § 522.842 *Estradiol benzoate and testosterone propionate in combination* (21 CFR 522.842) to reflect Syntex's currently approved labeling. The section also states that the use of the drug reflects the conclusions of the NAS/NRC evaluation of the product. The firm requested that 21 CFR 522.1940(d)(2)(iii) be similarly amended to conform to currently approved labeling. FDA concurs with the firm's request and also amends 21 CFR 522.1940 by adding new paragraph (e) of indicate that the use of the drug reflects the conclusions of the NAS/NRC evaluation published in the **Federal Register** of February 21, 1969 (34 FR 2517).

This revision is an administrative action which does not require any additional data and therefore does not require a freedom of information summary. In accordance with the

freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information is not required for this action.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director and Deputy Director, Center for Veterinary Medicine, Part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 522 continues to read as follows:

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

§ 522.1940 [Amended]

2. Section 522.1940 *Progesterone and estradiol benzoate in combination* is amended in paragraph (d)(2)(iii) by revising the phrase "between 400 and 1,000 pounds" to read "400 pounds or more" and by adding new paragraph (e) to read as follows:

§ 522.1940 Progesterone and estradiol benzoate in combination.

* * * * *

(e) *NAS/NRC status.* These conditions of use are NAS/NRC reviewed and found effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety data.

Dated: November 20, 1987.

Richard A. Carnevale,

Acting Associate Director, Office of New Animal Drug Evaluation Center for Veterinary Medicine.

[FR Doc. 87-27307 Filed 11-25-87; 8:45 am]

BILLING CODE 4160-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 224

Implementation of the Program Fraud Civil Remedies Act

AGENCY: Agency for International Development, IDCA.

ACTION: Final rule.

SUMMARY: The Agency for International Development issues this final regulation to implement the Program Fraud Civil Remedies Act of 1986, Pub. L. 99-509, codified at 31 U.S.C. 3801-3812. The regulation establishes administrative procedures for imposing the statutorily authorized civil penalties and assessments against any person who makes, submits, or presents or causes to be made, submitted or presented a false, fictitious, or fraudulent claim or written statement to the Agency for International Development.

EFFECTIVE DATE: December 28, 1987.

FOR FURTHER INFORMATION CONTACT: Gary Winter, (202) 647-8874.

SUPPLEMENTARY INFORMATION: Proposed regulations were published in the **Federal Register** on June 1, 1987 (52 FR 20413). The time period for submitting comments on the proposed regulations has expired with no comments having been received. However, the following changes were made in response to comments received on the model rule prepared by the task force organized by the President's Council on Integrity and Efficiency:

(a) The definition of the term "Benefit" in § 224.2 now reads "in the context of statement," anything of value, including but not limited to any advantage, preference, privilege, license, permit, favorable decision, ruling, status, or loan guarantee."

(b) The definition of the term "Person" in § 224.2 now reads "any individual, partnership, corporation, association, or private organization and includes the plural of that term."

(c) The definition of "Representative" in § 224.2 now reads "an attorney who is a member in good standing of the bar of any State, Territory, or possession of the United States or the District of Columbia or the Commonwealth of Puerto Rico."

(d) Section 224.5(b)(6) now reads "A statement that there is a reasonable prospect of collecting an appropriate amount of penalties and assessments."

(e) Section 224.8(a) now reads "Service of a complaint must be made by certified or registered mail or by delivery in any manner authorized by Rule 4(d) of the Federal Rules of Civil Procedure. Service is complete upon receipt."

(f) Section 224.8(b) now reads "Proof of service, stating the name and address of the person on whom the complaint was served, and the manner and date of service, may be made by—

(1) Affidavit of the individual serving the complaint by delivery;

(2) A United States Postal Service return receipt card acknowledging receipt; or

(3) Written acknowledgment of receipt by the defendant or his representative."

(g) A paragraph (c) was added to § 224.9. The new paragraph (c) reads "If the defendant is unable to file an answer meeting the requirements of paragraph (b) of this section within the time provided, the defendant may, before the expiration of 30 days from service of the complaint, file with the reviewing official a general answer denying liability and requesting a hearing, and a request for an extension of time within which to file an answer meeting the requirements of paragraph (b) of this section. The reviewing official shall file promptly with the ALJ the complaint, the general answer denying liability, and the request for an extension of time as provided in § 224.11. For good cause shown, the ALJ may grant the defendant up to 30 additional days within which to file an answer meeting the requirements of paragraph (b) of this section."

(h) Section 224.26(b) now reads "A party filing a document with the ALJ shall, at the time of filing, serve a copy of such document on every other party. Service upon any party of any document other than those required to be served as prescribed in § 224.8, shall be made by delivering a copy or by placing a copy of the document in the United States mail, postage prepaid and addressed, to the party's last known address. When a party is represented by a representative, service shall be made upon such representative in lieu of the actual party."

(i) Section 224.33(f)(2) now reads "In the case of a party that is not an individual, an officer or employee of the party appearing for the entity pro se or designated by the party's representative; or"

(j) Section 224.37(c) now reads "The ALJ shall promptly serve the initial decision on all parties within 90 days after the time for submission of post-hearing briefs and reply briefs (if permitted) has expired. The ALJ shall at the same time serve all parties with a statement describing the right of any defendant determined to be liable for a civil penalty or assessment to file a motion for reconsideration with the ALJ or a notice of appeal with the A.I.D. Administrator. If the ALJ fails to meet the deadline contained in this paragraph, he or she shall notify the parties of the reason for the delay and shall set a new deadline."

(k) Section 224.38(f) now reads "If the ALJ denies a motion for reconsideration, the initial decision shall constitute the final decision of the A.I.D. Administrator and shall be final and

binding on the parties 30 days after the ALJ denies the motion, unless the initial decision is timely appealed to the A.I.D. Administrator in accordance with § 224.39."

(l) Section 224.39(b) (1) and (2) now read "(1) A notice of appeal may be filed at any time within 30 days after the ALJ issues an initial decision. However, if another party files a motion for reconsideration under § 224.38, consideration of the appeal shall be stayed automatically pending resolution of the motion for reconsideration. (2) If a motion for reconsideration is timely filed, a notice of appeal may be filed within 30 days after the ALJ denies the motion or issues a revised initial decision, whichever applies."

(m) Paragraph (b)(3) of § 224.39 was removed and paragraph (b)(4) of § 224.39 renumbered to paragraph (b)(3) of that section.

(n) Section 224.39(c) now reads "If the defendant files a timely notice of appeal with the A.I.D. Administrator, and the time for filing motions for reconsideration under § 224.38 has expired, the ALJ shall forward the record of the proceeding to the A.I.D. Administrator."

(o) Section 224.39(k) now reads "The A.I.D. Administrator shall promptly serve each party to the appeal with a copy of his/her decision and a statement describing the right of any person determined to be liable for a penalty or assessment to seek judicial review."

List of Subjects in 22 CFR Part 224

Claims, Penalties.

For the reasons set forth in the preamble, Title 22, Chapter II, of the Code of Federal Regulations, is amended by adding a new Part 224 to read as follows:

PART 224—IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL REMEDIES ACT

Sec.

Authority: 22 U.S.C. 2381; 31 U.S.C. 3801–3812.

§ 224.1 Basis and purpose.

(a) *Basis.* This part implements the Program Fraud Civil Remedies Act of 1986, Pub. L. 99–509, sections 6101–6104, 100 Stat. 1874 (October 21, 1986), to be codified at 31 U.S.C. 3801–3812. 31 U.S.C. 3809 of the Statute requires each authority head to promulgate regulations necessary to implement to provisions of the statute.

(b) *Purpose.* This part (1) establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to the Agency for International Development or to its agents, and (2) specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments.

§ 224.2 Definitions.

A.I.D. means the Agency for International Development.

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

Benefit means, in the context of "statement," anything of value, including but not limited to any advantage, preference, privilege, license, permit, favorable decision, ruling, status, or loan guarantee.

Claim means any request, demand, or submission—

(a) Made to A.I.D. for property, services, or money (including money representing grants, loans, insurance, or benefits);

(b) Made to a recipient of property, services, or money from A.I.D. or to a party to a contract with A.I.D.—

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

(i) Provided such property or services;

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

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

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

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

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

(c) Made to A.I.D. which has the effect of decreasing an obligation to pay or account for property, services, or money.

Complaint means the administrative complaint served by the reviewing official on the defendant under § 224.7.

Defendant means any person alleged in a complaint under § 224.7 to be liable for a civil penalty or assessment under § 224.3.

Government means the United States Government.

Individual means a natural person.

Initial decision means the written decision of the ALJ required by § 224.10 or § 224.37, and includes a revised initial decision issued following a remand or a motion for reconsideration.

Investigating official means the Inspector General for A.I.D. or an officer or employee of the Office of Inspector General designated by the Inspector General and serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS–16 under the General Schedule.

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

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

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

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

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

Person means any individual, partnership, corporation, association, or private organization and includes the plural of that term.

Representative means an attorney who is a member in good standing of the bar of any State, Territory, or possession of the United States or the District of Columbia or the Commonwealth of Puerto Rico.

Reviewing official means the General Counsel of A.I.D. or his designee who is:

(a) Not subject to supervision by, or required to report to, the investigating official;

(b) Not employed in the organizational unit of A.I.D. in which the investigating official is employed; and

(c) Is serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS–16 under the General Schedule.

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

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

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

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

(2) A grant, loan, or benefit from, A.I.D., or any State, political subdivision of a State, or other party, if the United States Government provides any portion of the money or property under such contract or for such grant, loan, or benefit, or if the Government will reimburse such State, political subdivision, or party for any portion of the money or property under such contract or for such grant, loan, or benefit.

§ 224.3 Basis for civil penalties and assessments.

(a) *Claims* (1) Any person who makes a claim that the person knows or has reason to know—

(i) Is false, fictitious, or fraudulent;

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

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

(A) Omits a material fact;

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

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

(iv) Is for payment for the provision of property or services which the person has not provided as claimed;

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

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

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

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

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

(b) *Statements.* (1) Any person who makes a written statement that—

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

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

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

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

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

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

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

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

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

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

§ 224.4 Investigation.

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

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

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

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

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

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

(d) Nothing in this section modifies any responsibility of an investigating

official to report violations of criminal law to the Attorney General.

§ 224.5 Review by the reviewing official.

(a) If, based on the report of the investigating official under § 224.4(b), the reviewing official determines that there is adequate evidence to believe that a person is liable under § 224.3 of this part, the reviewing official shall transmit to the Attorney General a written notice of the reviewing official's intention to issue a complaint under § 224.7.

(b) Such notice shall include—

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

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

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

(4) An estimate of the amount of money or the value of property, services, or other benefits requested or demanded in violation of § 224.3 of this part;

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

(6) A statement that there is a reasonable prospect of collecting an appropriate amount of penalties and assessments.

§ 224.6 Prerequisites for issuing a complaint.

(a) The reviewing official may issue a complaint under 224.7 only if:

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

(2) In the case of allegations of liability under § 224.3(a) with respect to a claim, the reviewing official determines that, with respect to such claim or a group of related claims submitted at the same time such claim is submitted (as defined in paragraph (b) of this section), the amount of money or the value of property or services demanded or requested in violation of § 224.3(a) does not exceed $150,000.

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

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

§ 224.7 Complaint.

(a) On or after the date the Department of Justice approves the issuance of a complaint in accordance with 31 U.S.C. 3803(b)(1), the reviewing official may serve a complaint on the defendant, as provided in § 224.8.

(b) The complaint shall state:

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

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

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

(4) That failure to file an answer within 30 days of service of the complaint will result in the imposition of the maximum amount of penalties and assessments without right to appeal, as provided in § 224.10.

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

§ 224.8 Service of complaint.

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

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

(1) Affidavit of the individual serving the complaint by delivery;

(2) A United States Postal Service return receipt card acknowledging receipt; or

(3) Written acknowledgment of receipt by the defendant or his representative.

§ 224.9 Answer.

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

(b) In the answer, the defendant:

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

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

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

(4) Shall state the name, address, and telephone number of the person authorized by the defendant to act as defendant's representative, if any.

(c) If the defendant is unable to file an answer meeting the requirements of paragraph (b) of this section within the time provided, the defendant may, before the expiration of 30 days from service of the complaint, file with the reviewing official a general answer denying liability and requesting a hearing, and a request for an extension of time within which to file an answer meeting the requirements of paragraph (b) of this section. The reviewing official shall file promptly with the ALJ the complaint, the general answer denying liability, and the request for an extension of time as provided in § 224.11. For good cause shown, the ALJ may grant the defendant up to 30 additional days within which to file an answer meeting the requirements of paragraph (b) of this section.

§ 224.10 Default upon failure to file an answer.

(a) If the defendant does not file an answer within the time prescribed in § 224.9(a), the reviewing official may refer the complaint to the ALJ.

(b) Upon the referral of the complaint, the ALJ shall promptly serve on defendant in the manner prescribed in § 224.8, a notice that an initial decision will be issued under this section.

(c) The ALJ shall assume the facts alleged in the complaint to be true, and, if such facts establish liability under § 224.3, the ALJ shall issue an initial decision imposing the maximum amount of penalties and assessments allowed under the statute.

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

(e) If, before such an initial decision becomes final, the defendant files a motion with the ALJ seeking to reopen on the grounds that extraordinary circumstances prevented the defendant from filing an answer, the initial

decision shall be stayed pending the ALJ's decision on the motion.

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

(g) A decision of the ALJ denying defendant's motion under paragraph (e) of this section is not subject to reconsideration under § 224.38.

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

(i) If the defendant files a timely notice of appeal with the A.I.D. Administrator, the ALJ shall forward the record of the proceeding to the A.I.D. Administrator.

(j) The A.I.D. Administrator shall decide expeditiously whether extraordinary circumstances excuse the defendant's failure to file a timely answer based solely on the record before the ALJ.

(k) If the A.I.D. Administrator decides that extraordinary circumstances excused the defendant's failure to file a timely answer, the A.I.D. Administrator shall remand the case to the ALJ with instructions to grant the defendant an opportunity to answer.

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

§ 224.11 Referral of complaint and answer to the ALJ.

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

§ 224.12 Notice of hearing.

(a) When the ALJ receives the complaint and answer, the ALJ shall promptly serve a notice of hearing upon the defendant in the manner prescribed by § 224.8. At the same time, the ALJ shall send a copy of such notice to the representative for the Government.

(b) Such notice shall include:

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

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

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

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

(5) The name, address, and telephone number of the representative of the Government and of the defendant, if any; and

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

§ 224.13 Parties to the hearing.

(a) The parties to the hearing shall be the defendant and A.I.D.

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

§ 224.14 Separation of functions.

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

(1) Participate in the hearing as the ALJ;

(2) Participate or advise in the initial decision or the review of the initial decision by the A.I.D. Administrator, except as a witness or representative in public proceedings; or

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

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

(c) Except as provided in paragraph (a) of this section, the representative for the Government may be employed anywhere in A.I.D., including in the offices of either the investigating official or the reviewing official.

§224.15 Ex parte contacts.

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

§ 224.16 Disqualification of reviewing official or ALJ.

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

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

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

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

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

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

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

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

§ 224.17 Rights of parties.

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

(a) Be accompanied, represented, and advised by a representative;

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

(c) Conduct discovery;

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

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

(f) Present and cross-examine witnesses;

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

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

§ 224.18 Authority of the ALJ.

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

(b) The ALJ may:

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

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

(3) Hold conferences to identify or simplify the issues, or to consider other

matters that may aid in the expeditious disposition of the proceeding;

(4) Adminster oaths and affirmations;

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

(6) Rule on motions and other procedural matters;

(7) Regulate the scope and timing of discovery;

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

(9) Examine witnesses;

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

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

(12) Upon motion of a party, decide cases, in whole or in part, by summary judgment where there is no disputed issue of material fact;

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

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

(c) The ALJ does not have the authority to find Federal statutes or regulations invalid.

§ 224.19 Prehearing conferences.

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

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

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

(1) Simplification of the issues;

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

(3) Stipulations and admissions of fact or as to the contents and authenticity of documents;

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

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

(6) Limitation of the number of witnesses;

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

(8) Discovery;

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

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

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

§ 224.20 Disclosure of documents.

(a) Upon written request to the reviewing official, the defendent may review any relevant and material documents, transcripts, records, and other materials that relate to the allegations set out in the complaint and upon which the findings and conclusions of the investigating official under § 224.4(b) are based, unless such documents are subject to a privilege under Federal law. Upon payment of fees for duplication, the defendant may obtain copies of such documents.

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

(c) The notice sent to the Attorney General from the reviewing official as described in § 224.5 is not discoverable under any circumstances.

(d) The defendant may file a motion to compel disclosure of the documents subject to the provisions of this section. Such a motion may only be filed with the ALJ following the filing of an answer pursuant to § 224.9.

§ 224.21 Discovery.

(a) The following types of discovery are authorized:

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

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

(3) Written interrogatories; and

(4) Depositions.

(b) For the purpose of this section and § 224.22 and § 224.23, the term "documents" includes information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence. Nothing contained herein shall be interpreted to require the creation of a document.

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

(d) *Motions for Discovery.* (1) A party seeking discovery may file a motion with the ALJ. Such a motion shall be accompanied by a copy of the requested discovery, or in the case of depositions, a summary of the scope of the proposed deposition.

(2) Within ten days of service a party may file an opposition to the motion and/or a motion for protective order as provided in § 224.24.

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

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

(ii) Is not unduly costly or burdensome;

(iii) Will not unduly delay the proceeding; and

(iv) Does not seek privileged information.

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

(5) The ALJ may grant discovery subject to a protective order under § 224.24.

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

(2) The party seeking to depose shall serve the subpoena in the manner prescribed in § 224.8.

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

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

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

§ 224.22 Exchange of witness lists, statements and exhibits.

(a) At least 15 days before the hearing or at such other time as may be ordered by the ALJ, the parties shall exchange witness lists, copies of prior statements of proposed witnesses, copies of proposed hearing exhibits, including copies of any written statements that the party intends to offer in lieu of live testimony in accordance with § 224.33(b). At the time the above documents are exchanged, any party that intends to rely on the transcript of deposition testimony in lieu of live testimony at the hearing, if permitted by the ALJ, shall provide each party with a copy of the specific pages of the transcript it intends to introduce into evidence.

(b) If a party objects, the ALJ shall not admit into evidence the testimony of

any witness whose name does not appear on the witness list or any exhibit not provided to the opposing party as provided above unless the ALJ finds good cause for the failure or that there is no prejudice to the objecting party.

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

§ 224.23 Subpoenas for attendance at hearing.

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

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

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

(d) The subpoena shall specify the time and place at which the witness is to appear and any documents the witness is to produce.

(e) The party seeking the subpoena shall serve it in the manner prescribed in § 224.8. A subpoena on a party or upon an individual under the control of a party may be served by first-class mail.

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

§ 224.24 Protective order.

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

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

(1) That the discovery not be had;

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

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

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

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

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

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

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

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

§ 224.25 Fees.

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

§ 224.26 Form, filing and service of papers.

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

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

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

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

(b) *Service.* A party filing a document with the ALJ shall, at the time of filing, serve a copy of such document on every other party. Service upon any party of any document other than those required to be served as prescribed in § 224.8, shall be made by delivering a copy or by placing a copy of the document in the United States mail, postage prepaid and addressed, to the party's last known address. When a party is represented by a representative, service shall be made upon such representative in lieu of the actual party.

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

§ 224.27 Computation of time.

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

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

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

§ 224.28 Motions.

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

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

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

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

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

§ 224.29 Sanctions.

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

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

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

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

(b) Any such sanction, including but not limited to those listed in paragraphs (c), (d), and (e) of this section, shall reasonably relate to the severity and nature of the failure or misconduct.

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

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

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

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

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

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

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

§ 224.30 The hearing and burden of proof.

(a) The ALJ shall conduct a hearing on the record in order to determine whether the defendant is liable for a civil penalty or assessment under § 224.3, and if so, the appropriate amount of any such civil penalty or assessment considering any aggravating or mitigating factors.

(b) A.I.D. shall prove defendant's liability and any aggravating factors by a preponderance of the evidence.

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

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

§ 224.31 Determining the amount of penalties and assessments.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 224.32 Location of hearing.

(a) The hearing may be held:

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

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

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

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

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

§ 224.33 Witnesses.

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

(b) At the discretion of the ALJ, testimony may be admitted in the form of a written statement or deposition. Any such written statement must be provided to all other parties along with the last known address of such witness, in a manner which allows sufficient time for other parties to subpoena such witness for cross-examination at the hearing. Prior written statements of witnesses proposed to testify at the hearing and deposition transcripts shall be exchanged as provided in § 224.22(a).

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

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

(2) Avoid needless consumption of time, and

(3) Protect witnesses from harassment or undue embarrassment.

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

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

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

(1) A party who is an individual;

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

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

§ 224.34 Evidence.

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

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

(c) The ALJ shall exclude irrelevant and immaterial evidence.

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

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

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

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

(h) All documents and other evidence offered or taken for the record shall be open to examination by all parties, unless otherwise ordered by the ALJ pursuant to § 224.24.

§ 224.35 The record.

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

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

(c) The record of the hearing may be inspected and copied (upon payment of a reasonable fee) by anyone, unless otherwise ordered by the ALJ pursuant to § 224.24.

§ 224.36 Post-hearing briefs.

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

§ 224.37 Initial decision.

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

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

(1) Whether the claims or statements identified in the complaint, or any portion thereof, violate § 224.3;

(2) If the person is liable for penalties or assessments, the appropriate amount of any such penalties or assessments, considering any mitigating or aggravating factors that he or she finds in the case, such as those described in § 224.31.

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

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

§ 224.38 Reconsideration of initial decision.

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

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

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

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

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

(f) If the ALJ denies a motion for reconsideration, the initial decision shall constitute the final decision of the A.I.D. Administrator and shall be final and binding on the parties 30 days after the ALJ denies the motion, unless the initial decision is timely appealed to the A.I.D. Administrator in accordance with § 224.39.

(g) If the ALJ issues a revised initial decision, that decision shall constitute the final decision of the A.I.D. Administrator and shall be final and binding on the parties 30 days after it is issued, unless it is timely appealed to the A.I.D. Administrator in accordance with § 224.39.

§ 224.39 Appeal to A.I.D. administrator.

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

(b)(1) A notice of appeal may be filed at any time within 30 days after the ALJ issues an initial decision. However, if another party files a motion for

reconsideration under § 224.38, consideration of the appeal shall be stayed automatically pending resolution of the motion for reconsideration.

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

(3) The A.I.D. Administrator may extend the initial 30 day period for an additional 30 days if the defendant files with the A.I.D. Administrator a request for an extension within the initial 30 day period and shows good cause.

(c) If the defendant files a timely notice of appeal with the A.I.D. Administrator, and the time for filing motions for reconsideration under § 224.38 has expired, the ALJ shall forward the record of the proceeding to the A.I.D. Administrator.

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

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

(f) There is no right to appear personally before the A.I.D. Administrator.

(g) There is no right to appeal any interlocutory ruling by the ALJ.

(h) In reviewing the initial decision, the A.I.D. Administrator shall not consider any objection that was not raised before the ALJ unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection.

(i) If any party demonstrates to the satisfaction of the A.I.D. Administrator that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at such hearing, the A.I.D. Administrator shall remand the matter to the ALJ for consideration of such additional evidence.

(j) The A.I.D. Administrator may affirm, reduce, reverse, compromise, remand, or settle any penalty or assessment determined by the ALJ in an initial decision.

(k) The A.I.D. Administrator shall promptly serve each party to the appeal with a copy of his/her decision and a statement describing the right of any person determined to be liable for a penalty or assessment to seek judicial review.

(l) Unless a petition for review is filed as provided in 31 U.S.C. 3805 after a defendant has exhausted all administrative remedies under this part and within 60 days after the date on which the A.I.D. Administrator serves the defendant with a copy of his/her decision, a determination that a defendant is liable under 224.3 is final and is not subject to judicial review.

§ 224.40 Stays ordered by the Department of Justice.

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

§ 224.41 Stay pending appeal.

(a) An initial decision is stayed automatically pending disposition of a motion for reconsideration or of an appeal to the A.I.D. Administrator.

(b) No administrative stay is available following a final decision of the A.I.D. Administrator.

§ 224.42 Judicial review.

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

§ 224.43 Collection of civil penalties and assessments.

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

§ 224.44 Right to administrative offset.

The amount of any penalty or assessment which has become final, or for which a judgment has been entered under § 224.42 or § 224.43, or any amount agreed upon in a compromise or settlement under § 224.46, may be collected by administrative offset under 31 U.S.C. 3716, except that an administrative offset may not be made under the subsection against a refund of an overpayment of Federal taxes, then or later owning by the United States to the defendant.

§ 224.45 Deposit in Treasury of United States.

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

§ 224.46 Compromise or settlement.

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

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

(c) The A.I.D. Administrator has exclusive authority to compromise or settle a case under this part at any time after the date on which the ALJ issues an initial decision, except during pendency of any review under § 224.42 or during the pendency of any action to collect penalties and assessments under § 224.43.

(d) The Attorney General has exclusive authority to compromise or settle a case under this part during the pendency of any review under § 224.42 or of any action to recover penalties and assessments under 31 U.S.C. 3806.

(e) The investigating official may recommend settlement terms to the reviewing official, the A.I.D. Administrator, or the Attorney General, as appropriate. The reviewing official may recommend settlement terms to the A.I.D. Administrator, or the Attorney General, as appropriate.

(f) Any compromise or settlement must be in writing.

§ 224.47 Limitations.

(a) The notice of hearing with respect to a claim or statement must be served in the manner specified in § 224.8 within 6 years after the date on which such claim or statement is made.

(b) If the defendant fails to file a timely answer, service of a notice under § 224.10(b) shall be deemed notice of hearing for purposes of this section.

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

R.T. Rollis, Jr.,

Assistant to the Administrator for Management.

[FR Doc. 87-27137 Filed 11-25-87; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 201, 203, and 234

[Docket No. N-87-1753; FR-2425]

Mortgage Insurance; Changes to the Maximum Mortgage Limits for Single Family Residences, Condominiums and Manufactured Homes and Lots

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

ACTION: Notice of revisions to FHA maximum mortgage limits for high-cost areas.

SUMMARY: This Notice amends the listing of areas eligible for "high-cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act by increasing the mortgage limits for Raleigh-Durham, North Carolina MSA and the Charleston, South Carolina MSA; and adding "high-cost" mortgage limits for Hood and Kendall Counties, Texas, and Summit County, Utah. Mortgage limits are adjusted in an area when the Secretary determines that middle- and moderate-income persons have limited housing opportunities because of high prevailing housing sales prices.

EFFECTIVE DATE: November 27, 1987.

FOR FURTHER INFORMATION CONTACT: For single family: Morris Carter, Director, Single Family Development Division, Room 9270; telephone (202) 755-6720. For manufactured homes: Christopher Peterson, Director, Office of Manufactured Housing and Regulatory Functions, Room 9158; telephone (202) 755-5210; 451 Seventh Street, SW., Washington, DC 20410. (These are not toll-free numbers.).

SUPPLEMENTARY INFORMATION:

Background

The National Housing Act (NHA), 12 U.S.C. (1710-1749), authorizes HUD to insure mortgages for single family residences (from one- to four-family structures), condominiums, manufactured homes, manufactured home lots, and combination manufactured home lots. The NHA, as amended by the Housing and Community Development Amendments of 1980 and the Housing and Community Development Amendments of 1981, permits HUD to increase the maximum mortgage limits under most of these programs to reflect regional differences in the cost of housing. In addition, sections 2(b) and 214 of the NHA provide for special high-cost limits for insured mortgages in Alaska, Guam and Hawaii.

On October 1, 1986 (51 FR 34961), the Department published its most recent annual complete listing of areas eligible for "high-cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act, and their applicable limits for each area.

This Document

Today's document increases the high-cost mortgage amounts for Raleigh-Durham, North Carolina MSA and the Charleston, South Carolina MSA; and adds high-cost mortgage limits for Hood and Kendall Counties, Texas, and Summit County, Utah.

These amendments to the high-cost areas appear in two parts. Part I explains high-cost limits for mortgages insured under Title I of the National Housing Act. Part II lists changes for single family residences insured under section 203(b) or 234(c) of the National Housing Act.

National Housing Act High Cost Mortgage Limits

I. Title I: Method of Computing Limits

A. *Section 2(b)(1)(D). Combination manufactured home and lot (excluding Alaska, Guam and Hawaii):* To determine the high-cost limit for a combination manufactured home and lot loan, multiply the dollar amount in the "one family" column of Part II of this list by .80. For example, Durham County (Raleigh-Durham, North Carolina MSA) has a one-family limit of $90,000. The combination home and lot loan limit for Durham County is $90,000 x .80, or $72,000.

B. *Section 2(b)(1)(E): Lot only (excluding Alaska, Guam and Hawaii):* To determine the high-cost limit for a lot loan, multiply the dollar amount in the "one-family" column of Part II of this list by .20. For example, Durham County (Raleigh-Durham, North Carolina MSA) has a one-family limit of $90,000. The lot-only loan limit for Durham County is $90,000 x .20, or $18,000.

C. *Section 2(b)(2). Alaska, Guam and Hawaii limits:* The maximum dollar limits for Alaska, Guam and Hawaii may be 140% of the statutory loan limits set out in section 2(b)(1).

Accordingly, the dollar limits for Alaska, Guam and Hawaii are as follows:

1. For manufactured homes: $56,700. (40,500 × 140%).

2. For combination manufactured homes and lots: 75,600. ($54,000 × 140%).

3. For lots only: $18,900. (13,500 × 140%).

II. Title II: Updating of FHA Sections 203(b), 234(c) and 214 Area Wide Mortgage Limits

REGION IV

Market area designation and local	1-family and condo unit	2-family	3-family	4-family
HUD Field Office—Greensboro Office				
Raleigh-Durham, NC MSA	$90,000	$101,300	$122,650	$142,650
Durham County	90,000	101,300	122,650	142,650
Franklin County	90,000	101,300	122,650	142,650
Orange County	90,000	101,300	122,650	142,650
Wake County	90,000	101,300	122,650	142,650
HUD Field Office—Columbia Office				
Charleston, SC MSA	85,500	96,300	117,000	135,000
Berkeley County	85,500	96,300	117,000	135,000
Charleston County	85,500	96,300	117,000	135,000
Dorchester County	85,500	96,300	117,000	135,000

REGION VI

Market areas designation and local	1-family and condo unit	2-family	3-family	4-family
HUD Field Office—Fort Worth Office				
Hood County	$73,600	$82,900	$100,750	$116,250
HUD Field Office—San Antonio Office				
Kendall County	79,500	85,050	103,350	119,250

REGION VIII

Market areas designation and local	1-family and condo unit	2-family	3-family	4-family
HUD Field Office—Salt Lake City Office				
Summit County	$90,000	$101,300	$122,650	$142,650

Date: November 5, 1987.

Thomas T. Demery,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 87-27264 Filed 11-25-87; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

Surface Coal Mining and Reclamation Operations Under the Federal Lands Program; State-Federal Cooperative Agreements; Illinois

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

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) is adopting a cooperative agreement between the Department of the Interior (Department) and the State of Illinois (State) for the regulation of surface coal mining and reclamation operations (including surface operations and surface impacts incident to underground mining operations) and certain coal exploration operations on Federal lands in Illinois. Such a cooperative agreement is provided for under section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This final rule provides the terms of the cooperative agreement and additional information on other issues.

EFFECTIVE DATE: December 28, 1987.

FOR FURTHER INFORMATION CONTACT: James F. Fulton, Director, Springfield Field Office, Office of Surface Mining Reclamation and Enforcement, 600 East Monroe Street, Springfield, Illinois 62701, Telephone: (217) 492-4495.

SUPPLEMENTARY INFORMATION:

I. Background

The State of Illinois' Application

Section 523(c) of SMCRA, 30 U.S.C. 1201 *et seq.*, and the implementing regulations at 30 CFR Parts 740 and 745, allow a State and the Secretary of the Interior to enter into a permanent program cooperative agreement if the State has an approved State program for the regulation of surface coal mining and reclamation operations, including surface operations and surface impacts incident to underground mining operations, on non-Federal and non-Indian lands.

Permanent program cooperative agreements are authorized by the first sentence of section 523(c), which provides that "[a]ny State with an approved State program may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State, provided the Secretary determines in writing that such State has necessary personnel and funding to fully implement such a cooperative agreement in accordance with the provision[s] of [SMCRA]." 30 U.S.C. 1273(c).

On December 22, 1981, Illinois submitted its proposed permanent regulatory program. The Secretary reviewed and conditionally approved the permanent regulatory program on June 1, 1982. The State program, as amended, is referred to in this preamble and cooperative agreement as the Program.

On November 7, 1986, James R. Thompson, Governor of Illinois (Governor), requested that a permanent program cooperative agreement be entered into between the Secretary of the Interior and the Governor of Illinois.

30 CFR 745.11(b) requires that certain information be submitted with a request for a permanent program cooperative agreement, if the information has not previously been submitted in the State program. The State of Illinois submitted an initial draft of a proposed permanent program cooperative agreement and the supporting information required by 30 CFR 745.11(b) on August 14, 1986. Most of the information relating to the budget, staffing, organization and duties of the State regulatory authority, the Illinois Department of Mines and Minerals, was described in Illinois' Proposed Permanent Coal Program text. In addition, the State of Illinois submitted a written certification from the Chief Legal Counsel of the Illinois Department of Mines and Minerals, Land Reclamation Division (LRD), that no State statutory, regulatory or other legal constraint exists which would limit the capability of the Department of Mines and Minerals, acting through the LRD, to fully comply with section 523(c) of SMCRA, as implemented by 30 CFR Part 745.

Relation to the Federal Lands Program of SMCRA

The nature and extent of the Secretary's ability to delegate authority for surface coal mining operations on Federal lands to States through cooperative agreements was a subject of a Federal District Court opinion in *In Re: Permanent Surface Mining Regulation Litigation II*, Civil Action No. 79-1144 (D.D.C. July 6, 1984). The Illinois cooperative agreement (Agreement) is consistent with that opinion. It delegates the Secretary's authority under SMCRA which is required to be covered under the Federal lands program and retains the Secretary's non-delegable responsibilities under the Mineral Leasing Act.

Although OSMRE has not yet amended the scope of the Federal lands program, 30 CFR Chapter VII, Subchapter D, to be consistent with the District Court decision, this agreement encompasses the salient features of that decision. If changes to the Federal lands program are adopted which are not covered by this agreement, OSMRE and the Secretary will promptly initiate the steps necessary to conform the agreement.

II. Responses to Public Comments on the Proposed Agreement and Summary of the Final Agreement

The proposed agreement which was published in the Federal Register on March 24, 1987, announced that the public comment period would close April 24, 1987, and that a public hearing would be held, if it were requested. Since no one asked to testify, a public hearing was not held.

One comment on the proposed agreement discussed the applicability of State program requirements which are more stringent than OSMRE regulations. It stated that the State statute expressly prohibits State regulations to be more stringent than Federal regulations. OSMRE finds that this issue is independent of the cooperative agreement. Illinois regulations apply on Federal lands in Illinois whether or not there is a cooperative agreement in effect, as provided under 30 CFR 740.11(a).

Another comment focused on whether fish and wildlife resources, and their habitats, would be adequately protected, and whether there would be sufficient involvement of the U.S. Fish and Wildlife Service (FWS) to assure compliance with applicable Federal laws under its jurisdiction. LRD is the regulatory authority under the cooperative agreement. LRD is responsible for determining an operator's compliance with all applicable provisions of SMCRA, including those that pertain to fish and wildlife resources. Additional fish and wildlife protection requirements, under other Federal laws, remain under the jurisdiction of the FWS. While there may be some permit application packages (PAPs) that do not pose any particular fish and wildlife concerns, the agreement provides that LRD forward a copy of each PAP to all Federal agencies having responsibilities under Federal law for the proposed mining area, with a request for each agency's review and determination of compliance. This process also provides an opportunity for Federal agencies to recommend additional conditions, where necessary, for the operation to comply with all applicable requirements before LRD issues the permit, and where applicable, the Secretary approves the mining plan.

OSMRE received a comment stating that under paragraph VI.B.1.(review of a PAP where there is no Federally leased coal), the criteia for determining non-significant permit revisions were not defined. The commenter stated that the criteria should be made available to interested agencies and a system should be established to overview these determinations. The criteria for determining whether a proposed revision is non-significant (and thus when it is significant) are available and may be found in the Illinois State Program regulations under section 1788.12. It should be noted that LRD is delegated the responsibility to obtain for each PAP, the comments and determinations of other Federal agencies, "* * * except for non-significant revisions * * *" This requirement is based on section 511(a)(2) of SMCRA and 30 CFR 774.13(b)(2), which requires a public review and comment process only for significant revisions to a permit application. Although LRD is not required to obtain comments or concurrences from other Federal agencies in processing a non-significant revision, LRD is not restricted from consulting with such other Federal agencies when the need arises.

The comment that there should be a system to overview the criteria for non-significant revisions in the Program is not exclusively relevant to the cooperative agreement, but also applies to OSMRE's State program oversight process. Through oversight of the State program, OSMRE reviews the program to determine whether its provisions are functioning properly. If problems exist in implementation of a portion of the program, such as that relating to non-significant permit revisions, OSMRE and the State would determine the appropriate remedy.

Another comment asked whether LRD will be required to obtain comments and determinations from FWS on all PAPs. Comments from the FWS and other interested Federal and State agencies are sought for new permits and for significant revisions to permits. The procedure for obtaining comments is described in a later section of this preamble. Although it is not clear which determinations the commenter is referring to, OSMRE recognizes that FWS may have a greater role when the issuance of a permit involves the action of Federal agency. Under this cooperative agreement, although permit issuance is delegated to LRD, the Secretary retains the duty to approve mining plans when leased Federal coal is involved and to take various other actions, such as making compatibility determinations and certain valid existing rights decisions. Thus, in most instances a Federal action will occur for each mine on Federal lands.

Another comment stated that under paragraph VI.C.1. (review of PAPs for federally leased coal), the delegable responsibilities to be taken on by LRD and those to be retained by the Secretary as well as those under other other applicable Federal laws, are not defined, and wanted to know which of those relate to fish and wildlife and the environment. Under this agreement only SMCRA responsibilities are delegated. No Secretarial responsibilities under other Federal laws, such as the Endangered Species Act, as amended, 16 U.S.C. 1531 *et seq.*, are delegated.

OSMRE received a comment concerning the need for a mechanism to assure that fish and wildlife concerns are adequately and appropriately considered for permit revisions, permit renewals, and mining plan modifications. The Agreement and sections 1788.12 and 1788.14 of the Illinois program provide a mechanism to assure that fish and wildlife concerns are adequately addressed through review and comment by FWS on renewals and significant revisions to approved PAPs.

Another comment proposed that the Illinois Department of Conservation (DOC) concur in the determination of whether or not a mining plan modification is involved. Under the provisions of paragraph VI.D.1., there is no procedure for LRD or any other State agency to concur in the determination that a permit revision or renewal constitutes a mining plan modification. That is a determination under the Mineral Leasing Act and may not be delegated to a State. However, whether or not significant permit revisions or renewals constitute mining plan modifications, the procedure for processing them provides for comments of appropriate Federal and State agencies so as to assure that fish, wildlife and the environment are adequately considered. (See paragraphs VI.D.1. and VI.D.3 which reference paragraphs VI.C. or VI.B., as appropriate.)

Another comment stated that the text of the agreement did not refer to underground mining, although it is listed under the "List of Subjects" in the procedural matters section of this notice. Because the definition of "surface coal mining operations" includes surface

operations and surface impacts incident to underground mining operations, such operations are automatically included in the scope of this agreement. For clarity, the Summary of this **Federal Register** Notice and the first paragraph of Article I of the text of the Final Agreement includes a parenthetical statement that the surface operations and surface impacts of underground mining are covered in the Agreement.

Another comment noted that the acronym "SMORA", which appeared in the proposed agreement under Articles V.D. and VI.A.1 was not explained or defined. This undefined term is actually a typographical error for the term "SMCRA", i.e., the "Surface Mining Control and Reclamation Act".

Also, Appendix A has been revised to incorporate suggestions on proper citation of the Endangered Species Act and inclusion of the Fish and Wildlife Coordination Act.

A summary of the final agreement appears below.

Article I: Introduction, Purposes, and Responsible Agencies

Paragraph A of Article I sets forth the legal authority for the Agreement, which is provided by section 523(c) of SMCRA. This paragraph states that the Agreement provides for State regulation of surface coal mining and reclamation operations, and coal exploration operations not subject to 43 CFR Part 3480, Subparts 3480 through 3487, in Illinois on Federal lands.

Paragraph B sets forth the purposes of the Agreement, which are to foster Federal-State cooperation in regulating surface coal mining and reclamation operations and coal exploration not subject to 43 CFR Part 3480, Subparts 3480 through 3487; minimize intergovernmental overlap and duplication, and apply the Program uniformly and effectively.

Paragraph C names the Illinois Department of Mines and Minerals, Land Reclamation Division (LRD) as the agency responsible for administering the Agreement on behalf of the Governor, and the Office of Surface Mining Reclamation and Enforcement (OSMRE) as the agency responsible for administering the Agreement on behalf of the Secretary of the Department of the Interior (Secretary).

Article II: Effective Date

Article II provides that after it has been signed by the Secretary and the Governor, the Agreement becomes effective 30 days after publication as a final rule in the **Federal Register.** It remains in effect until terminated as provided in Article XI.

Article III: Definitions

Article III provides that any terms and phrases used in the Agreement have the same meanings as set forth in SMCRA and the State Act, regulations promulgated pursuant to those Acts, 30 CFR Parts 700, 701 and 740, and the Program. Defining terms and phrases in this manner ensures consistency between applicable regulations and the Agreement. Where there are conflicts in definitions, those included in the Program apply.

Article IV: Applicability

Article IV states that the laws, regulations, terms, and conditions of the Program and the Agreement are applicable to Federal lands in Illinois except as otherwise stated in the Agreement, SMCRA, 30 CFR 740.4, 740.11(a), and 745.13, and other applicable laws, Executive Orders, or regulations. This provision is consistent with the Federal lands program, which made the Program applicable on all Federal lands in Illinois.

The reference to the Program is intended to encompass the approval of that State program on June 1, 1982, and any amendments thereto which are approved in accordance with 30 CFR 732.17. Excluded from the scope of the Agreement are the authorities and responsibilities reserved to the Secretary pursuant to SMCRA 30 CFR 740.4 and 745.13 and other applicable laws, Executive Orders, or regulations.

Article V: General Requirements

Article V mutually binds the Governor and the Secretary to the provisions of the Agreement.

Paragraph A requires that LRD continue to have authority under State law to carry out the Agreement.

Paragraph B (Funds) provides that upon application for funds, the State shall be reimbursed by OSMRE pursuant to section 705(c) of the Act if necessary funds have been appropriated to OSMRE by Congress. Section 705(c) of SMCRA provides that a State with a cooperative agreement may receive an increase in its annual grant for the development, administration and enforcement of a State program on Federal lands by an amount which the Secretary determines is approximately equal to the amount the Federal government would otherwise have expended to regulate surface coal mining and reclamation operations on the Federal lands within the State. See 30 U.S.C. 1295(c). The reference in section 705(c) to section 523(d) is obviously a typographical error; the correct reference is section 523(c). The regulations implementing section 705(c) appear at 30 CFR 735.16 through 735.26.

If, when requested by the State, adequate funds have not been appropriated, OSMRE and LRD will meet and decide on appropriate measures to ensure that mining operations are regulated in accordance with the approved State program.

Paragraph C of Article V requires the State to make annual reports to OSMRE with respect to compliance with this Agreement. Paragraph C also provides for a general exchange of information developed under the Agreement, unless such an exchange is prohibited by Federal law. Final evaluation reports prepared by OSMRE on State administration and enforcement of this Agreement will be provided to LRD. The Agreement requires that LRD's comments on the report be appended before being sent to Congress and other interested parties. One change from the proposal is the insertion of a clause recognizing that if Congress requests the final report by a date certain, OSMRE could have to comply with such a request regardless of whether LRD has submitted its comments to OSMRE.

Paragraph D requires LRD to maintain the necessary personnel to fully implement this Agreement.

Paragraph E requires that LRD avail itself of the facilities necessary to carry out the requirements of the Agreement. This provision ensures that the State has access to and will utilize any resources necessary to conduct inspections, investigations, studies, tests, and analyses required to fulfill the requirements of this Agreement.

Paragraph F of Article V concerns permit application fees and civil penalties. Permit fees will be determined according to section 2.05 of the State Act, section 1771.25 of the State regulations, and the applicable provisions of the State program and Federal law. Any permit fees collected by the State that are attributable to the Federal lands covered by this agreement will be considered program income. The State will retain all permit fees from operations on Federal lands and deposit them with the State Treasurer. The State will report the amount of these fees in the financial status report required under 30 CFR 735.26. Civil penalties or fines collected by the State will not be considered program income.

Article VI: Review of a Permit Application Package

Paragraphs A through C of Article VI generally describe the procedures that the State and OSMRE will follow in the review and analysis of permit

application packages (PAP) for operations on Federal lands.

"Permit application package" is a term adopted by OSMRE in the Federal lands program (48 FR 6912, February 16, 1983). It is the material submitted by an applicant proposing to mine on Federal lands, including applications for permit revisions and renewals. OSMRE adopted the term because there are requirements for mining on Federal lands in addition to those required by a permit application under the approved State program for non-Federal lands. For example, operations on Federal lands may be subject to requirements of the Federal lands management agency under Federal laws other than SMCRA. The package concept allows for such information to be included with the permit application required by the approved State program. See the definition of "permit application package" under 30 CFR 740.5.

Under paragraph A, an applicant proposing to conduct surface coal mining and reclamation operations on Federal lands is required by LRD and the Secretary to submit a PAP in an appropriate number of copies to LRD. LRD will furnish OSMRE and other Federal agencies with an appropriate number of copies of the PAP.

The PAP will be in the form required by LRD and include any supplemental information required by OSMRE, the Federal land management agency and other agencies with jurisiction or responsibility over Federal lands affected by the operations proposed in the PAP. At a minimum, the PAP must satisfy the requirements of 30 CFR 740.13(b) and must include the information necessary for LRD to make a determination of compliance with the approved State program and for OSMRE and appropriate Federal agencies to make determinations of compliance with applicable requirements of SMCRA, the Federal lands program, and other Federal laws, Executive Orders and regulations for which they are responsible.

The Agreement also specifies that for any outstanding or pending applications on Federal lands being processed by OSMRE prior to the effective date of this Agreement, OSMRE will maintain sole permit decision responsibility. After the final decision, all additional responsibilities shall pass to LRD pursuant to the terms of this Agreement.

Paragraph B of Article VI describes the procedures that LRD and OSMRE will follow for review of a PAP where leased Federal coal is not involved.

Under paragraph B.1., LRD will assume the responsibilities listed in 30 CFR 740.4(c) (1), (2), (4), (6), and (7) to the extent authorized, where a PAP does not involve leased Federal coal.

The phrase "to the extent authorized" means that the exceptions to delegable responsibilities identified in 30 CFR 740.4(c) cannot be removed from OSMRE responsibility.

Also, to assure a more efficient administrative approach, LRD will be delegated the responsibility for obtaining, except for non-significant revisions, the comments and determinations of other Federal agencies with jurisdiction or responsibility over Federal lands affected by the operations proposed in the PAP. This exemption for non-significant revisions does not restrict LRD from consulting with such other agencies.

Paragraph B.1 also provides that responsibilities and decisions which can be delegated to LRD under other applicable Federal laws may be specified in working agreements between OSMRE and LRD, with the concurrence of any Federal agency involved, and without amendment to this Agreement.

Paragraph B.2. assigns to LRD the primary responsibility for the analysis, review, and approval or disapproval of the permit application component of the PAP. LRD will also be the principal contact for the applicant on issues concerned with the development, review and approval of the permit application package or an application for permit revision or renewal for surface coal mining and reclamation operations in Illinois on Federal lands and will be responsible for informing applicants of determinations.

Under paragraph B.3., the Secretary will make his determinations under SMCRA that cannot be delegated to the State. Some of these, such as those of section 522(b), have been delegated to OSMRE.

Under paragraph B.4., OSMRE and LRD will coordinate with each other, as needed. OSMRE will provide, upon request, technical assistance to LRD. OSMRE will be responsible for forwarding any information from applicants, including copies of correspondence that have a bearing on the PAP, to LRD. Any information in LRD files concerning operations on lands subject to the Federal lands program will be available to OSMRE. The Secretary reserves the right to act independently of LRD and to carry out responsibilities under laws other than SMCRA. OSMRE will also provide assistance to LRD in resolving conflicts with land management agencies.

Under paragraph B.5., LRD will make a decision on approval or disapproval of the permit on Federal lands.

LRD will be required to include in the permit any lawful terms or conditions imposed by the Federal lands management agency and will require that the lawful requirements of that agency be met. The permit will also be required to include the lawful terms and conditions required by other applicable Federal laws and regulations. LRD will give written notification to the Federal land management agency, the applicant, and any agency with jurisdiction or responsibility over Federal lands affected by operations proposed in the PAP. LRD will provide a copy of the permit and written findings to OSMRE, upon request.

Paragraph C of Article VI discusses review procedures for PAP's where leased Federal coal is involved and, consequently, where the Secretary must make a decision on a mining plan.

Under paragraph C.1., LRD will assume the responsibilities listed in 30 CFR 740.4(c) (1), (2), (3), (4), (6), and (7), to the extent authorized; these responsibilities are outlined below.

Under paragraph VI.C.1., LRD will, to the extent authorized, take on the delegable responsibilities for review and approval, disapproval or conditional approval of permit applications, revisions or renewals thereof, and applications for transfer, sales and assignment of such permits under 30 CFR 740.4(c)(1). OSMRE will assist LRD in this review, upon request, to the extent possible.

Paragraph VI.C.1. also designates LRD as the primary contact for applicants in matters regarding review of the PAP. As such, LRD will inform the applicant of all joint State-Federal determinations.

Under 30 CFR 740.4(c)(2) LRD will consult with and obtain the consent of the Federal land management agency concerning post-mining land use and protection of non-coal resources, and under 30 CFR 740.4(c)(3) will consult with and obtain the consent of the Bureau of Land Management (BLM) with respect to development, production, and recovery of mineral resources where operations involve leased Federal coal. On matters concerned exclusively with 43 CFR 3480, Subparts 3480 through 3487, BLM will be the primary contact with the applicant, and will provide LRD with documentation on its decisions. LRD will provide OSMRE with copies of correspondence with the applicant and any information received from the applicant regarding the PAP. OSMRE will provide LRD with copies of all correspondence with the applicant

which may have a bearing on the PAP. OSMRE will not ordinarily contact the applicant regarding the PAP, although OSMRE is not prevented from doing so.

LRD will also obtain the comments of other Federal agencies with jurisdiction or responsibility over Federal land affected by the operations proposed in the PAP. LRD will request that all Federal agencies submit their findings or any requests for additional data to LRD, and when necessary to OSMRE, within 45 days of receiving the PAP. OSMRE will assist LRD in obtaining this information, upon request of LRD.

The review of the PAP will be done to ensure timely identification, communication and resolution of issues relating to statutory requirements of Federal agencies. LRD will request that other Federal agencies also inform OSMRE of their analyses and conclusions.

LRD will be responsible for approval and release of performance bonds under 30 CFR 740.4(c)(4) in accordance with Article IX of this Agreement, and for review and approval of exploration operations not subject to 43 CFR Part 3480, subparts 3480 through 3487, under 30 CFR 740.4(c)(6).

LRD will prepare documentation to comply with NEPA under 30 CFR 740.4(c)(7), but OSMRE will retain the non-delegable responsibilities under 30 CFR 740.4(c)(7) (i) through (vii).

Under paragraph VI.C.2., the Secretary retains those responsibilities that cannot be delegated to LRD, including those under 30 CFR 740.4(a) of the Federal lands program regulations, MLA, NEPA, this agreement, and other applicable Federal laws. The Secretary will consider the information in the PAP and, where appropriate, make decisions required by SMCRA, MLA, NEPA, and other Federal laws. The Secretary will carry out his responsibilities in a timely manner and avoid, to the extent possible, duplication of those responsibilities delegated to the State in this Agreement and the Program.

Responsibilities and decisions which can be delegated to the State under other applicable Federal laws may be specified in working agreements between OSMRE and LRD, with concurrence of any Federal agency involved, and without amendment to this Agreement.

The Secretary reserves the right to act independently of LRD to carry out departmental responsibilities under laws other than SMCRA or provisions of SMCRA not covered by the Program, and in instances of disagreement over SMCRA and the Federal lands program.

Under paragraph VI.C.3., OSMRE will assist the State in carrying out its responsibilities by coordinating resolution of conflicts between LRD and other Federal agencies in a timely manner between those Federal agencies involved.

OSMRE will exercise its responsibilities in a timely manner and would provide LRD with a work product within 50 days of receiving the State's request for assistance in reviewing the permit application, unless a different time is agreed upon by OSMRE and LRD. OSMRE will also assist in scheduling joint meetings, upon request, between State and Federal agencies.

Paragraph VI.C.4. describes the procedures that OSMRE and the State will follow in reviewing the PAP. OSMRE and LRD will coordinate their activities and exchange information during the review process. The State will review the PAP to ensure compliance with the Program and State law and regulations, while OSMRE will review the PAP to ensure compliance with the non-delegable responsibilities of SMCRA and other Federal laws and regulations. Unless the District of Columbia circuit court of appeals reverses the July 6, 1984, District Court Opinion in *In Re: Permanent Surface Mining Regulation Litigation II, supra*, review of the MLA mining plan will include review of the operation and reclamation plan component of the SMCRA permit application. OSMRE and the LRD will plan and schedule PAP review and each will choose a project leader, who would serve as the primary points of contact for both during the review process. OSMRE will provide the State with its review comments within 50 days of receiving the PAP.

LRD will prepare a State decision package indicating whether the PAP complies with the Program. The review and finalization of the State's decision package will be conducted in accordance with procedures agreed upon by LRD and OSMRE for processing PAPs.

LRD may issue a SMCRA permit before the necessary Secretarial approval of the mining plan. However, LRD must advise the operator that Secretarial approval of the mining plan must be obtained before the operator enters the Federal lease. The permit issued by the State will be required to include the terms and conditions required by the lease and those required by other applicable Federal laws and regulations.

After making its decision, LRD will notify the applicant, the Federal land management agency, and any agency with jurisdiction or responsibility over Federal lands affected by operations proposed in the PAP. A copy of the permit and written finding will be submitted to OSMRE.

Under paragraph C.5., OSMRE will provide technical assistance to LRD upon request, if available resources allow.

Paragraph D of Article VI addresses review procedures for permit revisions; permit renewals; and transfer, assignment or sale of permit rights.

Paragraph D.1. assigns to LRD the authority to review, approve or disapprove permit revisions or renewals not constituting modifications of a mining plan pursuant to 30 CFR 746.18. LRD must consult with OSMRE on whether any permit revision or renewal constitutes a mining plan modification. OSMRE will inform LRD within 30 days of receiving a copy of the permit revision or renewal as to such a decision. Where approval of a mining plan modification is required, OSMRE and LRD will follow the procedures outlined in paragraphs C.1. through C.5. of this Article.

Under paragraph D.2., OSMRE may establish critieria consistent with 30 CFR 746.18 to determine which permit revisions or renewals clearly do not constitute mining plan modifications. Those revisions or renewals meeting the criteria may be approved by LRD prior to contacting OSMRE.

Under paragraph D.3., permit revisions or renewals not constituting mining plan modifications or meeting the criteria outlined in paragraph D.2. will be reviewed and approved or disapproved by the State following the procedures outlined in 62 Ill. Adm. Code 1774 and paragraph B of this Article.

Under paragraph D.4., transfer, assignment or sale of permit rights will be processed in accordance with 62 Ill. Adm. Code 1774 and 30 CFR 740.13(e).

Article VII: Inspections

Paragraphs A and B state LRD will conduct inspections on lands covered by this Agreement, prepare and file State inspection reports in accordance with its approved Program, and provide OSMRE with copies of the inspection reports.

Paragraph C will designate LRD as the point of contact and primary inspection authority in dealing with the operator. However, the Secretary will retain the right to conduct inspections of surface coal mining and reclamation operations on Federal lands without prior notice to LRD for the purpose of evaluating the manner in which the Agreement is being carried out, for insuring that performance and reclamation standards are being met, for complying with 30 CFR Parts 842 and 843, and for satisfying other legal obligations.

Paragraph D states that when OSMRE intends to conduct an inspection under 30 CFR 842.11, LRD will ordinarily be given reasonable notice of such an inspection to provide an opportunity for State inspectors to join in the inspection. When a Federal inspection is in response to a citizen complaint, such as a complaint alleging the threat of imminent danger to the public or imminent harm to the environment, OSMRE will give LRD at least 24 hours notice, if practical. All citizen complaints not involving an imminent harm to the public or the environment will be referred to LRD for action.

The Article preserves OSMRE's obligation and authority to conduct inspections pursuant to 30 CFR Parts 842 and 843. The right of Federal and State agencies to conduct inspections for purposes outside the scope of the proposed cooperative agreement will not be affected.

Article VIII: Enforcement

Article VIII will set forth the enforcement obligations and authorities of OSMRE and LRD.

Under paragraph A, LRD has primary enforcement authority on Federal lands in accordance with the requirements of the Agreement and the Program. Enforcement authority given to the Secretary under other laws and orders are reserved by the Secretary.

Under paragraph B, LRD has primary responsibility for enforcement during joint inspections with OSMRE. Paragraph B also includes a requirement that LRD notify OSMRE prior to suspending or revoking a permit.

Paragraph C preserves OSMRE's authority to take enforcement action to comply with 30 CFR Parts 843 and 845, where OSMRE conducts an inspection or where, during a joint inspection with LRD, the two do not agree on the appropriateness of a particular enforcement action. Such action will be based upon SMCRA or the substantive provisions contained in the Program, or both, but will use the Federal procedures and penalty system.

Paragraph D provides that OSMRE and LRD notify each other of all violations of applicable regulations and all actions taken on the violations.

Paragraph E provides that personnel of LRD and the Department of the Interior, including OSMRE, be mutually available to serve as witnesses in enforcement actions taken by either party.

Paragraph F specifies that this Agreement would not limit the Secretary's authority to enforce Federal laws other than SMCRA.

Article IX: Bonds

Under paragraph A, LRD and the Secretary will require each operator conducting operations on Federal lands to submit a performance bond payable to both the State and the United States. All applicable State and Federal requirements must be fulfilled prior to releasing an operator from any obligation covered by the performance bond. If the Agreement is terminated, paragraph A will require that the portion of the bond covering Federal lands reverts to being payable solely to the United States. LRD will advise OSMRE of annual adjustments to the performance bond pursuant to the Program.

Paragraph B states that release and forfeiture of performance bonds will be in accordance with procedures and requirements of the Program. Where surface coal mining and reclamation operations are subject to an approved mining plan, a performance bond shall be released by the State after the release is concurred in by OSMRE.

Paragraph C clarifies that the performance bond does not meet the requirement for a Federal lease bond under 43 CFR Part 3474, or for the lessee protection bond required in certain circumstances by section 715 of the SMCRA.

Article X: Designating Land Areas Unsuitable for All or Certain Types of Surface Coal Mining and Reclamation Operations and Activities and Valid Existing Rights and Compatibility Determinations

Paragraph A.1. of Article X reserves to the Secretary authority to designate Federal lands as unsuitable for surface coal mining and reclamation operations and activities, including the authority to make substantial legal and financial commitment determinations pursuant to section 522(a)(6) of SMCRA.

Paragraph A.2. states that LRD and OSMRE will notify each other of any petition to designate lands as unsuitable that could impact adjacent Federal and non-Federal lands, and solicit and consider each other's views on a petition. OSMRE will coordinate with the Federal land management agency with jurisdiction over the area covered by the petition, and will solicit comments.

Paragraph B discusses valid existing rights (VER) and compatibility determinations. OSMRE's definition of VER, which was published on September 14, 1983 (48 FR 41314), relied on a general "takings" standard.

In its March 22, 1985, decision, the District Court remanded this definition because the promulgation process violated the Administrative Procedure Act. On November 20, 1986, OSMRE published a suspension notice for the definition of VER pending further rulemaking. OSMRE has decided, for areas covered by sections 522(e) (1) and (2), to make VER determinations in Illinois using the VER definition contained in the State regulatory program in accordance with 30 CFR 740.11(a) and the suspension notice. Because the Illinois State program has a takings test, OSMRE will not process VER applications in Illinois within units of the National Park System until a Federal rule is finalized.

Paragraph B.1. states that OSMRE has responsibility for processing requests for VER determinations on Federal lands within the boundaries of areas where mining is prohibited by section 522(e)(1) of SMCRA. For private inholdings within section 522(e)(1) areas, LRD, with the consultation and concurrence of OSMRE, will determine whether operations on such lands will or will not affect the Federal interest (Federal lands as defined in section 701(4) of SMCRA). OSMRE has the responsibility for processing requests for VER determinations on private inholdings within the boundaries of section 522(e)(1) areas where mining affects the Federal interest.

Under paragraph B.2., OSMRE is responsible for processing requests for determinations of VER for proposed operations on Federal lands within the boundaries of any national forest, as identified in section 522(e)(2) of SMCRA. This authority is reserved by the Secretary in accordance with 30 CFR 745.13(o).

OSMRE will process compatibility determinations on Federal lands pursuant to section 522(e)(2) of SMCRA.

Under paragraph B.3., LRD will determine for Federal lands, whether the prohibitions or limitations of section 522(e)(3) of SMCRA are applicable to proposed mining operations which would adversely affect any public park, and in consultation with the State Historic Preservation Officer, any historic property listed in the National Register of Historic Places. LRD will also make the VER determination for such lands using the State program. Procedures will also be included for LRD to coordinate with any affected agency or agency with jurisdiction over the proposed operation.

In the case that VER is determined not to exist under section 522(e)(3) of SMCRA or 30 CFR 761.11(c), no surface coal mining operations will be permitted unless jointly approved by LRD and the

Federal, State or local agency with jurisdiction over the publicly owned park or historic place.

Under paragraph B.4., LRD will process and make VER determinations on Federal lands, using the State program, for all areas limited or prohibited by sections 522(e) (4) and (5) of SMCRA as unsuitable for mining. For such operations on Federal lands, LRD will coordinate with the affected agency and agency with jurisdiction over the proposed operation.

Article XI: Termination of Cooperative Agreement

Article XI specifies that this cooperative agreement may be terminated as specified under 30 CFR 745.15.

Article XII: Reinstatement of Cooperative Agreement

Article XII provides that, if terminated, the cooperative agreement may be reinstated under 30 CFR 745.16. That provision allows for reinstatement of a cooperative agreement upon application by the State after remedying the defects for which the Agreement was terminated and the submission of evidence to the Secretary that the State can and will comply with all of the provisions of the Agreement.

Article XIII: Amendment of Cooperative Agreement

Article XIII provides that the cooperative agreement may be amended by mutual agreement of the Governor and Secretary in accordance with 30 CFR 745.14.

Article XIV: Changes in State or Federal Standards

Paragraph A of Article XIV recognizes that the Secretary or the Governor may, from time to time, promulgate new or revised performance or reclamation requirements, or enforcement and administration procedures. If it is determined to be necessary to keep the Agreement in force, each party will change or revise its regulations or request necessary legislative action. Such changes will be made in accordance with 30 CFR Part 732 for changes to the approved State program and section 501 of the Act for changes to Federal lands program.

Paragraph B requires the State and OSMRE to provide each other with copies of changes in their respective laws and regulations.

Article XV: Changes in Personnel and Organization

Article XV requires LRD and OSMRE to advise each other of substantial changes in organization, funding, staff, or other changes which could affect administration or enforcement of the Agreement.

Article XVI: Reservation of Rights

Article XVI recognizes that the Act, 30 CFR 745.13, and other legal authorities prohibit the Secretary from delegating certain authorities to the State. Article XVI states that this Agreement will not be construed as waiving or preventing the assertion of any rights in this Agreement that the State or the Secretary may have under laws other than SMCRA, or their regulations, including those listed in Appendix A of this Agreement.

III. Procedural Matters

1. E.O. 12291 and Regulatory Flexibility Act

On October 21, 1982, the Department of the Interior received from the Office of Management and Budget an exemption for Federal/State cooperative agreements from the requirements of sections 3 and 7 of Executive Order 12291.

The Department has reviewed this proposed agreement in light of the Regulatory Flexibility Act (Pub. L. 96–354). Having conducted this review, the Department has determined that this document will not have a significant economic effect on a substantial number of small entities because no significant departure from either the State or Federal requirements already in effect will occur and no new or additional information will be required by the proposed agreement.

2. Paperwork Reduction Act of 1980

There are recordkeeping and reporting requirements in the Illinois Cooperative Agreement which are the same as those required by the permanent program regulations. Those recordkeeping and reporting requirements needed clearance from the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and were assigned the following clearance numbers:

Location of requirement	OMB clearance No.
Article V.C. (Required by 30 CFR Part 745).	See discussion below.
Article VI.A. (Required by 30 CFR Part 773).	1029–0041
Article VII.A. (Required by 30 CFR Part 840).	1029–0051
Article IX.A. (Required by 30 CFR Part 800).	1029–0043

Recordkeeping and reporting requirements under Article V.C. of the cooperative agreement are required by 30 CFR Part 745. In accordance with 5 CFR 1320.13(g), Part 745 has been submitted to OMB for clearance. The reporting provision in Article V.C. will not be required until OMB clearance is received.

3. National Environmental Policy Act

Proceedings relating to adoption of a permanent program cooperative agreement are part of the Secretary's implementation of the Federal lands program pursuant to section 523 of the Act. Such proceedings are exempt under section 702(d) of the Act from the requirements to prepare a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Author

The author of this regulation is Dr. Fred Block, Branch of Federal and Indian Programs, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution, NW., Washington DC, 20240; Telephone (202) 343–1864.

List of Subjects in 30 CFR Part 913

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

For the reasons set forth herein, 30 CFR Part 913 is amended as follows:

Dated: October 22, 1987.

James E. Cason,

Acting Assistant Secretary—Land and Minerals Management.

PART 913—ILLINOIS

1. The authority citation for Part 913 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.;* and Pub. L. 100–34.

2. Section 913.30 is added to read as follows:

§ 913.30 State-Federal cooperative agreement.

The Governor of the State of Illinois (Governor) and the Secretary of the Department of the Interior (Secretary) enter into a Cooperative Agreement (Agreement) to read as follows:

Article I: Introduction, Purposes and Responsible Agencies

A. *Authority:* This Agreement is authorized by section 523(c) of the Surface Mining Control and Reclamation Act (SMCRA), 30 U.S.C. 1273(c), which allows a State with a permanent regulatory program approved by the Secretary under section 503 of SMCRA, 30 U.S.C. 1253, to elect to enter into an agreement for State regulation of surface coal mining and reclamation operations (including surface operations and surface impacts incident to underground mining operations) on Federal lands. This Agreement provides for State regulation of coal exploration operations not subject to 43 CFR Part 3480.

Subpart 3480 through 3487, and surface coal mining and reclamation operations in Illinois on Federal lands (30 CFR Chapter VII Subchapter D), consistent with SMCRA and State and Federal laws governing such activities and the Illinois State Program (Program).

B. *Purposes:* The purposes of this Agreement are to (a) foster Federal-State cooperation in the regulation of surface coal mining and reclamation operations and coal exploration operations not subject to 43 CFR Part 3480, subparts 3480 through 3487; (b) minimize intergovernmental overlap and duplication; and (c) provide uniform and effective application of the Program on all lands in Illinois in accordance with SMCRA, the Program, and this Agreement.

C. *Responsible Administrative Agencies:* The Land Reclamation Division (LRD) of the Illinois Department of Mines and Minerals will be responsible for administering this Agreement on behalf of the Governor. The Office of Surface and Mining Reclamation and Enforcement (OSMRE) will administer this Agreement on behalf of the Secretary.

Article II: Effective Date

After being signed by the Secretary and the Governor, this Agreement will take effect 30 days after publication in the **Federal Register** as a final rule. This Agreeement will remain in effect until terminated as provided in Article XI.

Article III: Definitions

The terms and phrases used in this Agreement which are defined in SMCRA, 30 CFR Parts 700, 701 and 740, the Program, and this Agreement including the State Act [Ill. Rev. Stat. Ch 96½, Section 7901 *et seq.* (1985)], and the rules and regulations promulgated pursuant to those Acts, will be given the meanings set forth in said definitions. Where there is a conflict between the above reference State and Federal definitions, the definitions used in the Program will apply.

Article IV: Applicability

In accordance with the Federal lands program, the laws, regulations, terms and conditions of the Program and this Agreement are applicable to Federal lands in Illinois except as otherwise stated in this Agreement. SMCRA, 30 CFR 740.4, 740.11(a) and 745.13, and other applicable laws, Executive Orders, or regulations.

Article V: General Requirements

The Governor and the Secretary affirm that they will comply with all the provisions of this Agreement.

A. *Authority of State Agency:* IRD has and will continue to have the authority under State law to carry out this Agreement.

B. *Funds:* 1. Upon application by LRD and subject to appropriations, OSMRE will provide the State with the funds to defray the costs associated with carrying out its responsibilities under this Agreement as provided in section 705(c) of SMCRA, the grant agreement, and 30 CFR 735.16. Such funds will cover the full cost incurred by LRD in carrying out these responsibilities, provided that such cost does not exceed the estimated cost the Federal government would have expended on such responsibilities in the absence of this Agreement.

2. OSMRE's Springfield Field Office and OSMRE's Eastern Field Operations office will work with LRD to estimate the amount the Federal government would have expended for regulation of Federal lands in Illinois in the absence of this Agreement.

3. OSMRE and the State will discuss the OSMRE Federal lands cost estimate. After resolution of any issues, LRD will include the Federal lands cost estimate in the State's annual regulatory grant application submitted to OSMRE's Springfield Field Office.

The State may use the existing year's budget totals, adjusted for inflation and workload considerations in estimating regulatory costs for the following grant year. OSMRE will notify LRD as soon as possible if such projections are unrealistic.

4. If LRD applies for a grant but sufficient funds have not been appropriated to OSMRE, OSMRE and LRD will promptly meet to decide on appropriate measures that will insure that surface coal mining and reclamation operations on Federal lands in Illinois are regulated in accordance with the Program. If agreement cannot be reached, either party may terminate the Agreement in accordance with Article XI of this Agreement.

5. Funds provided to the LRD under this Agreement will be adjusted in accordance with Office of Management and Budget Circular A–102, Attachment E.

C. *Reports and Records:* LRD will make annual reports to OSMRE containing information with respect to compliance with the terms of this Agreement pursuant to 30 CFR 745.12(d). Upon request, LRD and OSMRE will exchange information developed under this Agreement, except where prohibited by Federal or State law.

OSMRE will provide LRD with a copy of any final evaluation report prepared concerning State administration and enforcement of this Agreement. LRD comments on the report will be appended before transmission to the Congress, unless necessary to respond to a request by a date certain, or to other interested parties.

D. *Personnel:* Subject to adequate appropriations and grant awards, the LRD will maintain the necessary personnel to fully implement this Agreement in accordance with the provisions of SMCRA, the Federal lands program, and the Program.

E. *Equipment and Laboratories:* Subject to adequate appropriations and grant awards, the LRD will assure itself access to equipment, laboratories, and facilities with which all inspections, investigations, studies, tests, and analyses can be performed which are necessary to carry out the requirements of the Agreement.

F. *Permit Application Fees and Civil Penalties:* The amount of the fee accompanying an application for a permit for surface coal mining and reclamation operations on Federal lands in Illinois will be determined in accordance with section 2.05 of the Illinois State Act, 62 Ill. Adm. Code 1771.25, and the applicable provisions of the Program and Federal law. All permit fees, civil penalties and fines collected from operations on Federal lands will be retained by the State and will be deposited with the State Treasurer. Permit fees will be considered program income. Civil penalties and fines will not be considered program income. The financial status report submitted pursuant to 30 CFR 735.26 will include a report of the amount of fees, penalties, and fines collected during the State's prior fiscal year.

Article VI: Review of Permit Application Package

A. Submission of Permit Application Package

1. LRD and the Secretary require an applicant proposing to conduct surface coal mining and reclamation operations on Federal lands covered by this Agreement to submit a permit application package (PAP) in an appropriate number of copies to LRD. LRD will furnish OSMRE and other Federal agencies with an appropriate number of copies of the PAP. The PAP will be in the form required by LRD and will include any supplemental information required by OSMRE, the Federal land management agency, and other agencies with jurisdiction or responsibility over Federal lands affected by the operations proposed in the PAP.

At a minimum, the PAP will satisfy the requirements of 30 CFR 740.13(b) and include the information necessary for LRD to make a determination of compliance with the Program and for OSMRE and the appropriate Federal agencies to make determinations of compliance with applicable requirements of SMCRA, the Federal lands program, and other Federal laws, Executive Orders, and regulations for which they are responsible.

2. For any outstanding or pending permit applications on Federal lands being processed by OSMRE prior to the effective date of this Agreement, OSMRE will maintain sole permit decision responsibility. After the final decision, all additional responsibilities shall pass to LRD pursuant to the terms of this Agreement.

B. Review Procedures Where There is No Leased Federal Coal Involved

1. LRD will assume the responsibilities for review of permit applications where there is no leased Federal coal to the extent authorized in 30 CFR 740.4(c) (1), (2), (4), (6) and (7). In addition to consultation with the Federal Land Management Agency pursuant to 30 CFR 740.4(c)(2), LRD will be responsible for obtaining, except for non-significant revisions, the comments and determinations of other Federal agencies with jurisdiction or responsibility over Federal lands affected by the operations proposed in the PAP. LRD will request such Federal agencies to furnish their findings or any requests for additional information to LRD within 45 calendar days of the date of receipt of the PAP. OSMRE will assist LRD in obtaining this information, upon request.

Responsibilities and decisions which can be delegated to LRD under other applicable Federal laws may be specified in working agreements between OSMRE and the State, with the concurrence of any Federal agency involved, and without amendment to this agreement.

2. LRD will assume primary responsibility for the analysis, review and approval or disapproval of the permit application component of the PAP required by 30 CFR 740.13 for surface coal mining and reclamation operations in Illinois on Federal lands not requiring a mining plan pursuant to the Mineral Leasing Act (MLA). LRD will review the PAP for compliance with the Program and State Act and regulations. LRD will be the primary point of contact for applicants regarding decisions on the PAP and will be responsible for informing the applicant of determinations.

3. The Secretary will make his determinations under SMCRA that cannot be delegated to the State. Some of which have been delegated to OSMRE.

4. OSMRE and LRD will coordinate with each other during the review process as needed. OSMRE will provide technical assistance to LRD when requested, if available resources allow. LRD will keep OSMRE informed of findings made during the review process which bear on the responsibilities of OSMRE or other Federal agencies. OSMRE may provide assistance to LRD in resolving conflicts with Federal land management agencies. OSMRE will be responsible for ensuring that any information OSMRE receives from an applicant is promptly sent to LRD. OSMRE will have access to LRD files concerning operations on Federal lands. OSMRE will send to LRD copies of all resulting correspondence between OSMRE and the applicant that may have a bearing on decisions regarding the PAP. The Secretary reserves the right to act independently of LRD to carry out his responsibilities under laws other than SMCRA.

5. LRD will make a decision on approval or disapproval of the permit on Federal lands.

(a) Any permit issued by LRD will incorporate any lawful terms or conditions imposed by the Federal land management agency, including conditions relating to post-mining land use, and will be conducted on compliance with the requirements of Federal land management agency.

(b) The permit will include lawful terms and conditions required by other applicable Federal laws and regulations.

(c) After making its decision on the PAP, LRD will send a notice to the applicant, OSMRE, the Federal land management agency, and any agency with jurisdiction or responsibility over Federal lands affected by the operations proposed in the PAP.

A copy of the permit and written findings will be submitted to OSMRE upon request.

C. Review Procedures Where Leased Federal Coal is Involved

1. LRD will assume the responsibilities listed in 30 CFR 740.4(c) (1), (2), (3), (4), (6) and (7), to the extent authorized.

In accordance with 30 CFR 740.4(c)(1), LRD will assume primary responsibility for the analysis, review and approval, disapproval or conditional approval of the permit application component of the PAP for surface coal mining and reclamation operations in Illinois where a mining plan is required, including applications for revisions, renewals and transfer sale and assignment of such permits. OSMRE will, at the request of the State, assist to the extent possible in this analysis and review.

LRD will be the primary point of contact for applicants regarding the review of the PAP for compliance with the Program and State law and regulations. LRD will be responsible for informing the applicant of all joint State-Federal determinations.

LRD will to the extent authorized, consult with the Federal land management agency and the Bureau of Land Management (BLM) pursuant to 30 CFR 740.4(c)(2) and (3), respectively. On matters concerned exclusively with regulations under 43 CFR Part 3480, Subparts 3480 through 3487, BLM will be primary contact with the applicant. BLM will inform LRD of its actions and provide LRD with a copy of documentation on all decisions.

LRD will send the OSMRE copies of any correspondence with the applicant and any information received from the applicant regarding the PAP. OSMRE will send to LRD copies of all OSMRE correspondence with the applicant which may have a bearing on the PAP. As a matter of practice, OSMRE will not independently initiate contacts with applicants regarding completeness or deficiences of the PAP with respect to matters covered by the Program.

LRD will also be responsible for obtaining the comments and determinations of other Federal agencies with jurisdiction or responsibility over Federal lands affected by the operations proposed in the PAP. LRD will request all Federal agencies to furnish their findings or any requests for additional information to LRD within 45 days of the date of receipt of the PAP. OSMRE will assist LRD in obtaining this information, upon request of LRD.

LRD will be responsible for approval and release of performance bonds under 30 CFR 740.4(c)(4) in accordance with Article IX of this agreement, and for review and approval of exploration operations not subject to 43 CFR Part 3480, subparts 3480–3487, under 30 CFR 740.4(c)(6).

LRD will prepare documentation to comply with the requirements of NEPA under 30 CFR 740.4(c)(7); however, OSMRE will retain the responsibility for the exceptions in 30 CFR 740.4(c)(7)(i)–(vii).

2. The Secretary will concurrently carry out his responsibilities under 30 CFR 740.4(a) that cannot be delegated to LRD under the Federal lands program, MLA, the National Environmental Policy Act (NEPA), this Agreement, and other applicable Federal laws. The Secretary will carry out these responsibilities in a timely manner and will avoid, to the extent possible, duplication of the responsibilities of the State as set forth in this Agreement and the Program. The Secretary will consider the information in the PAP and, where appropriate, make decisions required by SMCRA, MLA, NEPA, and other Federal laws.

Responsibilities and decisions which can be delegated to the State under other applicable Federal laws may be specified in working agreements between OSMRE and LRD, with concurrence of any Federal agency involved, and without amendment to this Agreement.

Where necessary to make the determination to recommend that the Secretary approve the mining plan, OSMRE will consult with and obtain the concurrences of the BLM, the Federal land management agency and other Federal agencies as required.

The Secretary reserves the right to act independently of LRD to carry out his responsibilities under laws other than SMCRA or provisions of SMCRA not covered by the Program, and in instances of disagreement over SMCRA and the Federal lands program.

3. OSMRE will assist LRD in carrying out LRD's responsibilities by:

(a) Coordinating resolution of conflicts and difficulties between LRD and other Federal agencies in a timely manner.

(b) Assisting in scheduling joint meetings, upon request, between State and Federal agencies.

(c) Where OSMRE is assisting LRD in reviewing the PAP, furnishing to LRD the work product within 50 calendar days of receipt of the State's request for such assistance, unless a different time is agreed upon by OSMRE and LRD.

(d) Exercising its responsibilities in a timely manner, governed to the extent possible by the deadlines established in the Program.

4. Review of the PAP: (a) OSMRE and LRD will coordinate with each other during the review process as needed. LRD will keep OSMRE informed of findings made during the review process which bear on the responsibilities of OSMRE or other Federal agencies. OSMRE will ensure that any information OSMRE receives which has a bearing on decisions regarding the PAP is promptly sent to LRD.

(b) LRD will review the PAP for compliance with the Program and State law and regulations.

(c) OSMRE will review the operation and reclamation plan portion of the permit application, and any other appropriate portions of the PAP for compliance with the non-delegable responsibilities of SMCRA and for compliance with the requirements of other Federal laws and regulations.

(d) OSMRE and LRD will develop a work plan and schedule for PAP review and each will identify a person as the project leader. The project leaders will serve as the primary points of contact between OSMRE and LRD throughout the review process. Not later than 50 days after receipt of the PAP, unless a different time is agreed upon, OSMRE will furnish LRD with its review comments on the PAP and specify any requirements for additional data. To the extent practicable, LRD will provide OSMRE all available information that may aid OSMRE in preparing any findings.

(e) LRD will prepare a State decision package, including written findings and supporting documentation, indicating whether the PAP is in compliance with the Program. The review and finalization of the State decision package will be conducted in accordance with procedures for processing PAPs agreed upon by LRD and OSMRE.

(f) LRD may make a decision on approval or disapproval of the permit on Federal lands in accordance with the Program prior to the necessary Secretarial decision on the mining plan, provided that LRD advises the operator in the permit that Secretarial approval of the mining plan must be obtained before the operator may conduct coal development or mining operations on the Federal lease. LRD will reserve the right to amend or rescind any requirements of the permit to conform with any terms or conditions imposed by the Secretary in his approval of the mining plan.

(g) The permit will include, as applicable, terms and conditions required by the lease issued pursuant to the MLA and by any other applicable Federal laws and regulations, including conditions imposed by the Federal land management agency relating to post-mining land use, and those of other affected agencies, and will be conditioned on compliance with the requirements of the Federal land management agency with jurisdiction.

(h) After making its decision on the PAP, LRD will send a notice to the applicant, OSMRE, the Federal land management agency, and any agency with jurisdiction or responsibility over Federal land affected by operations proposed in the PAP. A copy of the written findings and the permit will also be submitted to OSMRE.

5. OSMRE will provide technical assistance to LRD when requested, if available resources allow. OSMRE will have access to LRD files concerning operations on Federal lands.

D. Review Procedures for Permit Revisions; Renewals; and Transfer Assignment or Sale of Permit Rights

1. Any permit revision or renewal for an operation on Federal lands will be reviewed and approved or disapproved by LRD after consultation with OSMRE on whether such revision or renewal constitutes a mining plan modification pursuant to 30 CFR 746.18. OSMRE will inform LRD within 30 days of receiving a copy of a proposed revision or renewal, whether the permit revision, or renewal constitutes a mining plan modification. Where approval of a mining plan modification is required, OSMRE and LRD will follow the procedures outlined in paragraphs C.1. through C.5. of this Article.

2. OSMRE may establish criteria consistent with 30 CFR 746.18 to determine which permit revisions and renewals clearly do not constitute mining plan modifications.

3. Permit revisions or renewals on Federal lands which are determined by OSMRE not to constitute mining plan modifications under paragraph D.1. of this Article or that meet the criteria for not being mining plan modifications as established under paragraph D.2. of this Article will be reviewed and approved following the procedures set forth in 62 Ill. Adm. Code 1774 and paragraphs B.1. through B.5. of this Article.

4. Transfer, assignment or sale of permit rights on Federal lands shall be processed in accordance with 62 Ill. Adm. Code 1774 and 30 CFR 740.13(e).

Article VII: Inspections

A. LRD will conduct inspections on Federal lands in accordance with 30 CFR 740.4(c)(5) and prepare and file inspection reports in accordance with the Program.

B. LRD will, subsequent to conducting any inspection pursuant to 30 CFR 740.4(c)(5), and on a timely basis, file with OSMRE a legible copy of the completed State inspection report.

C. LRD will be the point of contact and primary inspection authority in dealing with the operator concerning operations and compliance with the requirements covered by the agreement, except as described hereinafter. Nothing in this Agreement will prevent inspections by authorized Federal or State agencies for purposes other than those covered by this Agreement. The Department may conduct any inspections necessary to comply with 30 CFR Parts 842 and 843 and its obligations under laws other than SMCRA.

D. OSMRE will ordinarily give LRD reasonable notice of its intent to conduct an inspection under 30 CFR 842.11 in order to provide State inspectors with an opportunity to join in the inspection.

When OSMRE is responding to a citizen complaint of an imminent danger to the public health and safety, or of significant, imminent environmental harm to land, air or water resources, pursuant to 30 CFR 842.11(b)(1)(ii)(C), it will contact LRD no less than 24 hours prior to the Federal inspection, if practicable, to facilitate a joint Federal/State inspection. All citizen complaints which do not involve an imminent danger or significant, imminent environmental harm will be referred to LRD for action. The Secretary reserves the right to conduct inspections without prior notice to LRD to carry out his responsibilities under SMCRA.

Article VIII: Enforcement

A. LRD will have primary enforcement authority under SMCRA concerning compliance with the requirements of this Agreement and the Program in accordance with 30 CFR 740.4(c)(5). Enforcement authority given to the Secretary under other Federal laws and Executive orders including, but not limited to, those listed in Appendix A (attached) is reserved to the Secretary.

B. During any joint inspection by OSMRE and LRD, LRD will have primary responsibility for enforcement procedures, including issuance of orders of cessation, notices of violation, and assessment of penalties. LRD will inform OSMRE prior to issuance of any decision to suspend or revoke a permit on Federal lands.

C. During any inspection made solely by OSMRE or any joint inspection where LRD and OSMRE fail to agree regarding the propriety of any particular enforcement action, OSMRE may take any enforcement action necessary to comply with 30 CFR Parts 843 and 845. Such enforcement action will be based on the standards in the Program, SMCRA, or both, and will be taken using the procedures and penalty system contained in 30 CFR Parts 843 and 845.

D. LRD and OSMRE will promptly notify each other of all violations of applicable laws, regulations, orders, or approved mining permits subject to this Agreement, and of all actions taken with respect to such violations.

E. Personnel of LRD and the Department of the Interior, including OSMRE, will be mutually available to serve as witness in enforcement actions taken by either party.

F. This Agreement does not affect or limit the Secretary's authority to enforce violations of Federal laws other than SMCRA.

Article IX: Bonds

A. LRD and the Secretary will require each operator who conducts operations on Federal lands to submit a performance bond payable to the State of Illinois and the United States to cover the operator's responsibilities under SMCRA and the Program. Such performance bond will be conditioned upon compliance with all requirements of the SMCRA, the Program, State rules and regulations, and any other requirements imposed by the Secretary or the Federal land management agency. Such bond will provide that if this Agreement is terminated, the portion of the bond covering the Federal lands will be payable only to the United States. LRD will advise OSMRE of annual adjustments to the performance bond pursuant to the program.

B. Performance bonds will be subject to release and forfeiture in accordance with the procedures and requirements of the Program. Where surface coal mining and reclamation operations are subject to an approved mining plan, a performance bond shall be released by the State after the release is concurred in by OSMRE.

C. Submission of a performance bond does not satisfy the requirements for a Federal lease bond required by 43 CFR Subpart 3474 or lessee protection bond required in addition to a performance bond, in certain circumstances, by section 715 of SMCRA.

Article X: Designating Land Areas Unsuitable for All or Certain Types of Surface Coal Mining and Reclamation Operations and Activities and Valid Existing Rights and Compatibility Determinations

A. Unsuitability Petitions

1. Authority to designate Federal lands as unsuitable for mining pursuant to a petition, including the authority to make substantial legal and financial commitment determinations pursuant to section 522(a)(6) of SMCRA, is reserved to the Secretary.

2. When either LRD or OSMRE receives a petition to designate land areas unsuitable for all or certain types of surface coal mining operations that could impact adjacent Federal or non-Federal lands pursuant to section 522(c) of SMCRA, the agency receiving the petition will notify the other of its receipt and the anticipated schedule for reaching a decision, and request and fully consider data, information and recommendations of the other. OSMRE will coordinate with the Federal land management agency with jurisdiction over the petition area, and will solicit comments from the agency.

B. Valid Existing Rights and Compatibility Determinations

The following actions will be taken when requests for determinations of VER pursuant to section 522(e) of SMCRA or for determinations of compatibility pursuant to section 522(e)(2) of SMCRA, and received prior to or at the time of submission of a PAP

that involves surface coal mining and reclamation operations and activities:

1. For Federal lands within the boundaries of any areas specified under section 522(e)(1) of SMCRA, OSMRE will determine whether VER exists for such areas.

For private inholdings within section 522(e)(1) areas, LRD, with the consultation and concurrence of OSMRE, will determine whether surface coal mining operations on such lands will or will not affect the Federal interest (Federal lands as defined in section 701(4) of SMCRA). OSMRE will process VER determination requests on private inholdings within the boundaries of section 522(e)(1) areas where surface coal mining operations affects the Federal interest.

2. For Federal lands within the boundaries of any national forest where proposed operations are prohibited or limited by section 522(e)(2) of SMCRA and 30 CFR 761.11(b), OSMRE will make the VER determinations.

OSMRE will process requests for determinations of compatibility under section 522(e)(2) of SMCRA.

3. For Federal lands, LRD will determine whether any proposed operation will adversely affect any publicly owned park and, in consultation with the State Historic Preservation Officer, places listed in the National Register of Historic Places, with respect to the prohibitions or limitations of section 522(e)(3) of SMCRA. LRD will make the VER determination for such lands using the State Program. LRD will coordinate with any affected agency or agency with jurisdiction over the proposed surface coal mining and reclamation operations.

In the case that VER is determined not to exist under section 522(e)(3) of SMCRA or 30 CFR 761.11(c), no surface coal mining operations will be permitted unless jointly approved by LRD and the Federal, State or local agency with jurisdiction over the publicly owned park or historic place.

4. LRD will process and make determinations of VER on Federal lands, using the State Program, for all areas limited or prohibited by section 522(e)(4) and (5) of SMCRA as unsuitable for mining. For operations on Federal lands, LRD will coordinate with any affected agency or agency with jurisdiction over the proposed surface coal mining and reclamation operation.

Article XI: Termination of Cooperative Agreement

This Agreement may be terminated by the Governor or the Secretary under the provisions of 30 CFR 745.15.

Article XII: Reinstatement of Cooperative Agreement

If this Agreement has been terminated in whole or in part it may be reinstated under the provisions of 30 CFR 745.16.

Article XIII: Amendment of Cooperative Agreement

This Agreement may be amended by mutual agreement of the Governor and the Secretary in accordance with 30 CFR 745.14.

Article XIV: Changes in States or Federal Standards

A. The Secretary or the Governor may from time to time promulgate new or revised performance or reclamation requirements or enforcement and administration procedures. Each party will, if it determines it to be necessary to keep this Agreement in force, change or revise its regulations or request necessary legislative action. Such changes will be made under the procedures of 30 CFR Part 732 for changes to the Program and under the procedures of section 501 of SMCRA for changes to the Federal lands program.

B. LRD and the Secretary will provide each other with copies of any changes to their respective laws, rules, regulations or standards pertaining to the enforcement and administration of this Agreement.

Article XV: Changes in Personnel and Organization

Each party to this Agreement will notify the other, when necessary, of any changes in personnel, organization and funding, or other changes that may affect the implementation of this Agreement to ensure coordination of responsibilities and facilitiate cooperation.

Article XVI: Reservation of Rights

This Agreement will not be construed as waiving or preventing the assertion of any rights in this Agreement that the State or the Secretary may have under laws other than SMCRA or their regulations, including but not limited to those listed in Appendix A.

Dated: September 17, 1987.

James R. Thompson,

Governor of Illinois.

Dated: October 22, 1987.

Donald Paul Hodel,

Secretary of the Interior.

APPENDIX A

1. The Federal Land Policy and Management Act, 43 U.S.C. 1701 *et seq.*, and implementing regulations.

2. The Mineral Leasing Act of 1920, 30 U.S.C. 181 *et seq.*, and implementing regulations, including 43 CFR Part 3480.

3. The National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and implementing regulations, including 40 CFR Part 1500.

4. The Endangered Species Act, as amended, 16 U.S.C. 1531 *et seq.*, and implementing regulations, including 50 CFR Part 402.

5. The Fish and Wildlife Coordination Act, as amended, 16 U.S.C. 661 *et seq.*; 48 Stat. 401.

6. The National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.*, and implementing regulations, including 36 CFR Part 800.

7. The Clean Air Act, 42 U.S.C. 7401 *et seq.*, and implementing regulations.

8. The Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, and implementing regulations.

9. The Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 *et seq.*, and implementing regulations.

10. The Reservoir Salvage Act of 1960, amended by the Preservation of Historical and Archaeological Data Act of 1974, 16 U.S.C. *et seq.*

11. Executive Order 11593 (May 13, 1971), Cultural Resource Inventories on Federal Lands.

12. Executive Order 11988 (May 24, 1977), for flood plain protection.

13. Executive Order 11990 (May 24, 1977), for wetlands protection.

14. The Mineral Leasing Act for Acquired Lands, 30 U.S.C. 351 *et seq.*, and implementing regulations.

15. The Stock Raising Homestead Act of 1916, 43 U.S.C. 291 *et seq.*

16. The Constitution of the United States.

17. Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.*

18. 30 CFR Chapter VII.

19. The Constitution of the State of Illinois.

20. Illinois Surface Coal Mining Land Conservation and Reclamation Act [Ill. Rev. State. 1979, Ch. 96 1/2/par. 7901 *et seq.*]

21. Illinois Department of Mines and Minerals, Coal Mining and Reclamation Permanent Program, Rules and Regulations, 62 Ill. Adm. Code 1700–1850.

[FR Doc. 87–27312 Filed 11–25–87; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–3287–8]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: The USEPA announces final approval of the incorporation of rules to control volatile organic compounds (VOC) from petroleum refining fugitive emissions, rubber tire manufacturing and perchloroethylene dry cleaning in the Illinois State Implementation Flan (SIP) for ozone. USEPA's action is based

upon a revision which was submitted by the State to satisfy the requirements of Part D of the Clean Air Act (Act).

EFFECTIVE DATE: This final rulemaking becomes effective on December 28, 1987.

ADDRESSES: Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Randolph O. Cano, at (312) 886-6036, before visiting the Region V Office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706.

FOR FURTHER INFORMATION CONTACT: Randy Cano, (312) 886–6036.

SUPPLEMENTARY INFORMATION: On July 11, 1985 (50 FR 28225), USEPA proposed rulemaking and solicited public comment on a January 28, 1983, proposed revision to the Illinois State Implementation Plan (SIP) for ozone. This proposed SIP revision was in the form of a December 30, 1982, Final Order of the Illinois Pollution Control Board (R80–5).

The Final Order was submitted to satisfy the provisions of the Act which requires States to revise their SIPs for areas that have not attained the national ambient air quality standards (NAAQS). For States with ozone nonattainment areas, USEPA has stated that the minimum acceptable level of ozone control includes reasonably available control technology (RACT) requirements for sources of VOC emissions for which USEPA had published Control Technology Guidelines (CTG) published by January 1978 (RACT I) and additional RACT requirements on an annual basis for VOC sources covered by CTGs published by January of the preceding year. (See 44 FR 20372 (April 4, 1979) as supplemented at 44 FR 38538 (July 2, 1979); 44 FR 50371 (August 28, 1979); 44 FR 53761 (September 17, 1979); and 44 FR 67182 (November 23, 1979)). Adoption and submittal of additional RACT regulations for sources covered by CTGs published between January 1978 and January 1979 (RACT II) were due January 1, 1981 (45 FR 78132; November 25, 1980).

The State's January 28, 1983, submittal was intended to satisfy the Federal requirements for adoption of rules concerning certain sources covered by Group II of the CTGs.

USEPA's evaluation of the State's regulations, as contained in the notice of proposed rulemaking, found the rules for three source categories to be consistent with the requirements of RACT: petroleum refinery fugitive emissions, rubber tire manufacturing, and perchloroethylene dry cleaning. As a consequence, USEPA proposed approval of the regulations for these source categories on July 11, 1985 (50 FR 2822). In this same notice, it proposed to disapprove certain other RACT II source category regulations.

No public comments were received relative to these three source categories. Other public comments relative to other RACT II source categories will be addressed when USEPA makes final rulemaking on the remaining portions of the State's stationary source VOC control strategy. The State is currently reconsidering these regulations in response to USEPA's proposed disapproval. USEPA's evaluation of these revisions is the subject of a separate notice of proposed rulemaking on the State's ozone SIP.

The State's regulations to satisfy USEPA's reqirements under the petroleum refinery fugitive emissions category are contained in Illinois Polution Control Board (IPCB) Rule 205(10)(4)–(10). Rule 205(1)(4) contains general requirements for petroleum refinery leaks. Rules 205(1) (5) and (6) impose a monitoring program and plan for refinery leaks. Rule 205(1)(7) imposes recordkeeping requirements for leaks. Rule 205(1)(8) imposes reporting requirements for refinery leaks. Rule 205(1)(9) provides for an alternative program for refinery leaks. Rule 205(1)(10) imposes a sealing device requirement.

The State's regulations to satisfy USEPA's requirements under the rubber tire manufacturing category are contained in IPCB Rule 205(t). Rule 205(t)(1) imposes requirements on the owner or operator of an undertread cementing, tread end cementing or bead dipping operations. Rule 205(t)(2) regulates green tire spraying operations. Rule 205(t)(3) provides for alternative compliance in lieu of the requirements of Rules 205(t) (1) and (2). Rule 205(t)(4) imposes testing and monitoring requirements for the manufacture of pneumatic rubber tires.

The State's regulations to satisfy USEPA's requirements under the dry cleaning perchloroethylene category are contained in IPCB Rule 205(u). Rule 205(u)(1) imposes control requirements on dry cleaning facilities using perchloroethylene. Rule 205(u)(2) exempts coin operated facilities and dry cleaning operations consuming less than 30 gallons per month of perchloroethylene. Rule 205(u)(3) imposes testing and monitoring requirements.

USEPA is approving the State's regulations for petroleum refinery fugitive emissions, rubber tire manufacturing and perchloroethylene dry cleaning, as submitted by the State, for incorporation in the Illinois SIP on January 28, 1983.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuity by January 26, 1988. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

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

Dated: October 30, 1987.

Lee M. Thomas,

Administrator.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.720 is revised by adding new paragraph (c)(69) as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(69) On January 28, 1983, the Illinois Environmental Protection Agency submitted a December 30, 1982, Illinois Pollution Control Board Order (R80–5). Illinois Pollution Control Board Rules 205(l)(4) through (10), 205(t) and 205(u) are approved.

(i) Incorporation by reference.

(A) Ilinois Pollution Control Board Rules 205(l)(4) through (10), 205(t) and

205(u) as contained in December 30, 1982, Illinois Pollution Control Board Order R80–5.

(ii) Additional material—none.

[FR Doc. 87–25654 Filed 11–25–87; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6769]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATE: The third date ("Susp.") listed in the third column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646–2717, Federal Center Plaza, 500 C Street, Southwest, Room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register.** In the interim, if you wish to determine if a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended.) This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule if promulgated will not have significant economic impact on a substantial number of small entities. As stated in Section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chrronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance—floodplains.

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas.
Region I—Minimal Conversions				
Massachusetts: New Salem, Town of, Franklin County	250123	Mar. 18, 1976, Emerg.; Dec. 1, 1987, Reg.; Dec. 1, 1987 Susp	Dec. 1, 1987	Dec. 1, 1987
Region II				
New York: Amsterdam, Town of, Montgomery County	360441	July 16, 1975, Emerg.; Dec. 1, 1987, Reg.; Dec. 1, 1987, Susp	do	Do.
Region III				
Virginia: Spotsylvania County, unincorporated areas	510308	Feb. 25, 1977, Emerg.; Dec. 1, 1987, Reg.; Dec. 1, 1987, Susp	do	Do.

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas.
Pennsylvania:				
Patterson, Township of, Beaver County	422326	Nov. 28, 1975, Emerg.; Dec. 1, 1987, Reg.; Dec. 1, 1987, Susp	do	Do.
Roseto, Borough of, Northampton County	422255	Mar. 7, 1978, Emerg.; Dec. 1, 1987, Reg.; Dec. 1, 1987, Susp	do	Do.
Region I—Regular Conversions				
Connecticut:				
Norfolk, Town of, Litchfield County	090181	Oct. 22, 1975, Emerg.; Dec. 3, 1987, Reg.; Dec. 3, 1987, Susp	Dec. 3, 1987	Dec. 3, 1987.
Roxbury, Town of, Litchfield County	090051	Aug. 19, 1975, Emerg.; Dec. 3, 1987, Reg.; Dec. 3, 1987, Susp	do	do.
Maine: Eastport, City of, Washington County	230137	June 11, 1985, Emerg.; Dec. 3, 1987, Reg.; Dec. 3, 1987, Susp	do	Do.
Region III				
Pennsylvania:				
Lack, Township of, Juniata County	421742	July 28, 1975, Emerg.; Dec. 3, 1987, Reg.; Dec. 3, 1987, Susp	do	Do.
Greenwood, Township of, Juniata County	421741	July 7, 1975, Emerg.; Dec. 3, 1987, Reg.; Dec. 3, 1987, Susp	do	Do.
West Perry, Township of, Snyder County	422042	Feb. 9, 1976, Emerg.; Dec. 3, 1987, Reg.; Dec. 3, 1987, Susp	do	Do.
Region IV				
Kentucky:				
Perryville, City of, Boyle County	210020	July 21, 1975, Emerg.; Dec. 3, 1987, Reg.; Dec. 3, 1987, Susp	do	Do.
Whitesburg, City of, Letcher County	210140	June 4, 1975, Emerg.; Dec. 3, 1987, Reg.; Dec. 3, 1987, Susp	do	Do.
Region V				
Michigan, Sebewaing, Village of, Huron County	260572	Mar. 24, 1976, Emerg.; Dec. 3, 1987, Reg.; Dec. 3, 1987, Susp	do	Do.
Region VII				
Missouri: Chariton County, unincorporated areas	290073	Jan. 12, 1984, Emerg.; Dec. 3, 1987, Reg.; Dec. 3, 1987, Susp	do	Do.
Region II—Regular Conversions				
New York:				
Rockland, Town of, Sullivan County	360829	July 29, 1975, Emerg.; Dec. 17, 1987, Reg.; Dec. 17, 1987, Susp	Dec. 17, 1987	Dec. 17, 1987.
Varick, Town of, Seneca County	360758	Nov. 3, 1975, Emerg.; Dec. 17, 1987, Reg., Dec. 17, 1987, Susp	do	Do.
Youngstown, Village of, Niagara County	360515	Mar. 30, 1973, Emerg.; June 4, 1980, Reg.; Dec. 17, 1987, Susp	do	Do.
Region III				
Pennsylvania: Washington, Township of, Dauphin County	421598	Jan. 20, 1976, Emerg.; Dec. 17, 1987, Reg.; Dec. 17, 1987, Susp	do	Do.
Region IV				
Alabama:				
Carbon Hill, City of, Walker County	010204	Mar. 18, 1977, Emerg.; Dec. 17, 1987, Reg.; Dec. 17, 1987, Susp	do	Do.
Childersburg, City of, Talladega County	010197	April 23, 1975, Emerg.; Dec. 17, 1987, Reg.; Dec. 17, 1987, Susp	do	Do.
Demopolis, City of, Marengo County	010157	Aug. 21, 1975, Emerg.; Dec. 17, 1987, Reg.; Dec. 17, 1987, Susp	do	Do.
Flomation, Town of, Escambia County	010074	Aug. 26, 1975, Emerg.; Dec. 17, 1987, Reg.; Dec. 17, 1987, Susp	do	Do.
Jackson, City of, Clarke County	010040	Aug. 11, 1975, Emerg.; Dec. 17, 1987, Reg.; Dec. 17, 1987, Susp	do	Do.
Stevenson, City of, Jackson County	010113	Oct. 16, 1984, Emerg.; Dec. 1987, Reg.; Dec. 17, 1987, Susp	do	Do.
Sylacauga, City of, Talladega County	010199	Feb. 18, 1975, Emerg.; Dec. 17, 1987, Reg.; Dec. 17, 1987, Susp	do	Do.
Vernon, City of, Lamar County	010139	July 25, 1974, Emerg.; Dec. 17, 1987, Reg.; Dec. 17, 1987, Susp	do	Do.
Region V				
Michigan:				
Hamlin, Township of, Mason County	260134	July 2, 1975, Emerg.; Dec. 17, 1987, Reg.; Dec. 17, 1987, Susp	do	Do.
Summit, Township of, Mason County	260307	Sept. 27, 1974, Emerg.; Dec. 17, 1987, Reg.; Dec. 17, 1987, Susp	do	Do.
Region VI				
Oklahoma: Wyandotte, Town of, Ottawa County	400161	July 12, 1976, Emerg.; Dec. 17, 1987, Reg.; Dec. 17, 1987, Susp	do	Do.
Region VIII				
Montana: Lake County, unincorporated areas	300155	April 19, 1978, Emerg.; Dec. 17, 1987, Reg.; Dec. 17, 1987, Susp	do	Do.
Region VI				
Texas: Jim Hogg County, unincorporated areas	481081	Nov. 14, 1975, Emerg.; Nov. 1, 1987, Reg.; Dec. 17, 1987, Susp	Nov. 1, 1987	Nov. 1, 1987.
Region VIII				
Montana: Fort Belknap Indian Reserve, Blaine and Phillips Counties.	300180	Apr. 25, 1978, Emerg.; Dec. 17, 1987, Reg.; Dec. 17, 1987, Susp	Dec. 17, 1987	Dec. 17, 1987.

Code for reading fourth column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 87-27248 Filed 11-25-87; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 63, 67, and 69

[Common Carrier Docket No. 86-309; FCC 87-304]

Inquiry Into Policies To Be Followed in the Authorization of Common Carrier Facilities To Provide Telecommunications Service Off of the Island of Puerto Rico

AGENCY: Federal Communications Commission (FCC).

ACTION: Policies.

SUMMARY: This action develops needed policies and guidelines to be followed in acting on applications to provide common carrier services between the island of Puerto Rico and off-island points.

EFFECTIVE DATE: November 27, 1987.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Claudia Pabo, (202) 632-4047.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order* in Common Carrier Docket 86-309, FCC 87-204, Adopted September 17, 1987, and Released October 15, 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.

Summary of the Report and Order

I. Introduction

1. On July 18, 1986 (published in the Federal Register, July 24, 26562, 51 FR 26562), we initiated a rulemaking proceeding to develop policies and guidelines concerning applications for facilities to provide common carrier telecommunications services between the island of Puerto Rico and off-island points. The proceeding was instituted in light of the filing of several such applications which are now pending before the Commission. In this Order, we conclude that competition in the domestic and international off-island markets is feasible and would promote the public interest. We also find that the public convenience and necessity would be furthered by the introduction of direct telecommunications service between Puerto Rico and additional off-island points.

2. We also establish a number of requirements for entry by the Puerto Rico Telephone Company (PRTC) into the relevant off-island markets. These requirements include conditions of access to the island network and off-island switching facilities for multiple off-island carriers and non-structural safeguards designed to ensure that competition in the interexchange markets will not be impaired as a result of PRTC's monopoly over local services. In addition, we find no need to require that PRTC amend its applications to account for competitive advantages which some commenters claim PRTC possesses as a result of its government-owned status. Moreover, we find that rate integration agreements for service between Puerto Rico/U.S. Virgin Islands and the U.S. mainland need not be modified as a result of the entry of PRTC or other carriers into the domestic, off-island market.

3. We defer to separate Orders action on the pending Earth station applications and the issue of whether demand for off-island telecommunications service is adequate to accommodate economically two "modified" Standard A international satellite Earth stations on the island. Additionally, we shall address in separate Orders, consistent with the conclusions set forth in this Order, PRTC's and the ITT Companies' applications to provide direct service to and from Canada and other points via existing and new facilities.

II. Competitive Entry

4. We rely on our findings in the *MTS and WATS Market Structure* proceeding in concluding that competition in the domestic off-island market would benefit the public. In that proceeding, we declared that competition in the provision of interstate interexchange MTS and WATS services would promote the public interest. We have not received evidence challenging the benefits of competition in the domestic off-island market, and the Commission's open entry policy in CC Docket No. 78–72 clearly contemplated competitive entry by independent local exchange companies (LECs). In addition, as indicated in the NPRM, we find that Puerto Rico is within the geographic scope of our pro-entry policy in the *MTS and WATS Market Structure* proceeding. Even if our decision in the *MTS and WATS Market Structure* proceeding that competition in the provision of interstate interexchange services would serve the public interest had not applied to Puerto Rico, we would reach that conclusion in this proceeding based on an analysis of MTS traffic and revenue data between the continental U.S. and Puerto Rico.

5. We also affirm our tentative conclusion in the NPRM that the introduction of competition in various off-island international markets is feasible and will benefit the public, although we will act on specific section 214 applications to serve international points in separate proceedings.

III. Access Conditions

6. In the NPRM, we proposed a set of general principles concerning access conditions which PRTC must meet in order to receive authorization to provide off-island services. We affirm, in large part, the general principles proposed in the NPRM concerning the access requirements to be satisfied by PRTC before it is authorized to enter off-island markets, although the requirements which we are establishing here differ from those contained in the NPRM to some extent. To begin with, we find that the public interest would be served by the authorization of PRTC into off-island markets through those end offices in which acceptable equal access or interim access arrangements are available for both originating and terminating traffic. PRTC has represented that it intends to implement full mainland style FGD equal access service throughout the island by the end of 1989. It has also stated that Puerto Rico Communications Authority (PRCA) will implement equal access in its service territory during 1988. While this commitment goes beyond the generally applicable equal access obligations of independent telephone companies, we intend to rely upon PRTC's representations and make them a condition of PRTC's entry into the off-island markets. However, this requirement will be waived if PRTC demonstrates that it cannot reasonably complete its equal access conversion in accordance with this schedule. We would also entertain requests for waivers of this requirement in the case of small end offices upon a showing that conversion to equal access would not be cost effective and that equal access in such offices is not required to ensure fair competition. We also note certain concerns about PRTC's original plan to implement FGD equal access simultaneously in all end offices throughout its service territory, although we do not require a phased conversion.

7. PRTC must comply with all of our existing requirements for equal access balloting. Any acceptable presubscription process for off-island carriers must specify that users are choosing a carrier to provide off-island services, but not long distance intra-island services, and that the customers selecting a competing off-island carrier will continue to receive intra-island service from PRTC on a "1+" basis without discrimination based on the customer's selection of an off-island carrier. We also require PRTC to comply with reasonable requests to interconnect off-island switches of competing carriers to ensure the full benefits of competition in the provision of off-island services. We note further that PRTC must provide sufficient information about the island network to allow competing carriers to utilize their own off-island switches effectively.

8. In sum, for equal access to be deemed available in a particular end office, PRTC must: (a) Convert that end office to provide full mainland style FGD equal access capability; (b) implement a balloting arrangement in compliance with existing requirements to allow all users to presubscribe to their chosen off-island carrier; and (c) upon reasonable request by a competing off-island carrier, interconnect that carrier's off-island switch with the island network as requested. We also note that access tandem switches have traditionally been installed in conjunction with the conversion of end offices to equal access on the mainland because this has improved efficiency and fostered competitive entry.

Accordingly, we would expect PRTC to install one or more access tandem switches as it upgrades its network unless another approach would prove more cost effective from a public interest perspective for the provision of interstate access in Puerto Rico.

9. We conclude that the public would benefit from PRTC's entry into the competitive off-island markets under interim access arrangements, given appropriate safeguards. The public benefits of PRTC's entry would be undermined if it were allowed to provide itself access arrangements superior to those of other off-island carriers or to downgrade the present access of All America Cables and Radio (AACR) [Note: All references to AACR and ITT Communications Inc.-Virgin Islands refer to these companies and their successors in interest]. We also conclude that the public should be provided the benefits resulting from the provision of off-island switching and routing services by competing carriers. Thus, we find that in order for the public to benefit fully from PRTC's entry into off-island markets under interim, pre-equal access arrangements, PRTC must satisfy the following conditions: (a) AACR must receive access arrangements at least as desirable as its current access; (b) to the extent access arrangements are unequal, AACR, as the traditional off-island carrier, must receive the superior access and all other authorized carriers must receive equal access to that of PRTC's off-island interexchange operations; and (c) upon reasonable request by a competing off-island carrier, PRTC must interconnect that carrier's off-island switch located on the island with the island network as requested. Finally, PRTC and all other new competitive entrants must pay the full premium access charges imposed on AACR.

10. We shall not authorize PRTC to provide off-island services until it has filed section 214 applications which meet the following requirements: First, PRTC must show that the end offices through which it is proposing to provide off-island service have been converted to accommodate access arrangements for multiple carriers, as specified in its interim access proposal, subject to the modifications adopted in this Order. Second, PRTC must demonstrate that it has complied with all reasonable requests by AACR and other carriers for interconnection of their off-island switches to the island network.

IV. Non-Structural Safeguards

11. We hereby affirm our unopposed tentative conclusion that PRTC should not be barred from entering off-island markets simply because it is a LEC. We also conclude that the public interest does not require that PRTC create a separate subsidiary to provide off-island services. Rather, we find that certain non-structural safeguards will ensure fair competition. These non-structural safeguards include PRTC's compliance with our Part 67 rules for separating the costs incurred in "intrastate" and "interstate" activities, and our Part 69 rules, as well as its disclosure of certain types of network information, customer proprietary network information (CPNI) and line and usage information. We also find that PRTC should be treated as a dominant carrier in the provision of IMTS. PRTC would also be regulated as dominant in the provision of domestic, off-island telecommunications service pursuant to our decisions in the *Competitive Carrier* proceeding.

12. The following non-structural safeguards are based on those we imposed on AT&T and the Bell Operating Companies (BOCs) as conditions for removing the Computer II structural requirements from their customer premises equipment (CPE) and enhanced service operations. First, we establish a requirement governing the disclosure of network information, an integral part of the obligations that we are imposing on PRTC in providing information needed by off-island carriers to interconnect with the island network. Therefore, we require PRTC to notify all authorized off-island carriers when new or modified network configurations or services that affect such interconnection are under development for any portion of its service area. Such information must be disclosed at the make/buy point. The requisite notification need not contain detailed technical information, but it must describe the proposed configuration or service with sufficient detail to allow other off-island carriers to understand what the new configuration or service is and what its capabilities are. The notification must indicate that the relevant technical and market information will be made available to any authorized off-island carrier, but such disclosure may be limited to entities willing to execute a nondisclosure agreement. Once an off-island carrier has signed a nondisclosure agreement, PRTC must provide the required information within a reasonable period not to exceed thirty days. Moreover, PRTC must disclose the technical network information and market information to the public twelve months prior to the introduction of the new or modified network configuration or service, by a means adequate to communicate the information effectively and efficiently. We believe that these information disclosure requirements will allow all off-island carriers adequate time to respond to changes in the island network without inhibiting PRTC's ability to develop its network in an innovative fashion.

13. Second, we require that PRTC make its customers' CPNI available to competing off-island carriers if the customers so request. The availability of such information must be on the same terms, conditions and at the same prices that are applicable to PRTC's off-island service operations. We also require PRTC to establish procedures permitting customers to prevent dissemination of their CPNI to PRTC personnel who are involved in off-island activities. Moreover, we require PRTC to notify its multiline business customers regarding its CPNI obligations to ensure that these customers are aware of their CPNI rights. Further, to the extent aggregated CPNI is provided to PRTC's off-island service operations and does not reveal proprietary information, we require PRTC to make such information available to competing off-island carriers on the same terms and conditions as it is made available to PRTC's off-island service personnel. In addition, we require PRTC to file a plan describing the procedures it intends to establish to implement these CPNI safeguards. We shall not authorize PRTC to enter off-island markets until we approve this plan. The procedures set forth in the plan should be as efficient and nonburdensome as possible in terms of the measures that they establish for customers to use in exercising their rights and the measures for competing off-island carriers to use in obtaining customer information when authorized.

14. Finally, we require PRTC to provide off-island carriers, on request, with the following data, disaggregated by end office or wire center: historical and projected numbers of business and residence telephone lines; and average usage per line. We require PRTC to update this information periodically, but no less frequently than semi-annually. We also require PRTC to provide this information at the same price as it is made available to PRTC personnel engaged in the provision of off-island services.

V. Government Ownership

15. We affirm our tentative finding in the NPRM that PRTC should not be precluded from entering off-island markets merely because of its publicly-owned status. While we have stated

that we favor private over public ownership of long-distance facilities, our policy has not been to prohibit government ownership of facilities but to examine applications raising this issue carefully to ensure that the public will obtain the benefits of the best possible service at reasonable rates. We will not require PRTC to amend its applications to account for benefits which it obtains from the Government of Puerto Rico.

VI. Rate Integration

16. In the NPRM, we noted that the existing agreement for the implementation of fully integrated rates for MTS and WATS service between the U.S. mainland and Puerto Rico/U.S. Virgin Islands was adopted in 1979, when off-island service was provided only by AACR. We find that the record does not present any circumstances which suggest that rate integration agreements are applicable to the services PRTC is proposing to offer at this time.

VII. Earth Station Applications

17. In the NPRM we tentatively concluded that the institution of international Standard A earth station service in Puerto Rico would promote the public convenience and necessity. We also tentatively concluded that a carrier's Title III earth station application should not be granted unless we find its accompanying section 214 application to be in the public interest. We stated that our initial review of the two pending Title III applications revealed a demand for international service on the circuits between Puerto Rico and an expanded number of overseas points and that the operation of international earth station facilities could also be expected to be an important factor in achieving rapid growth in international telecommunications traffic on the island. We affirm those findings, further, we conclude that no purpose would be served by the grant of PRTC's Title III earth station application unless we find a grant of its accompanying section 214 application to be in the public interest. Since we have determined in this Order that PRTC has not yet taken all steps necessary to accommodate acceptable access arrangements for multiple carriers in the off-island markets, we can take no action at this time on any of its section 214 applications to provide off-island service. Hence, we will not take action on PRTC's Title III earth station application at this time. We will address AACR's Title III earth station application and accompanying section 214 application in a separate Order, consistent with the requirements set forth herein.

18. We shall defer to a separate decision our determination of whether demand will be adequate in the foreseeable future to accommodate economically both proposed international satellite earth stations. This matter will be addressed in the context of separate action on the pending earth station applications. Should the record demonstrate that demand will support more than one earth station, we shall not delay action on one application pending resolution of any outstanding questions regarding the other application.

VIII. Ordering Clauses

19. Accordingly, it is ordered, pursuant to sections 4(i), 4(j), 201, 202, 214, 308–310, 319 and 403 of the Communications Act of 1934, 47 U.S.C. 154(i), 154(j), 201, 202, 214, 308–310, 319 and 403 (1976), that the policies, rules and requirements set forth herein are adopted.

20. It is further ordered, that the Motion for Leave to File Response of Puerto Rico Telephone Company is granted.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-27072 Filed 11-25-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 14

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 246

[Docket No. 50710-7209]

Marking Containers of Fish or Wildlife

AGENCIES: Fish and Wildlife Service, Interior; National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) and National Oceanic and Atmospheric Administration (NOAA) publish final regulations implementing section 7(a)(2) of the Lacey Act Amendments of 1981, 95 Stat. 1078, 16 U.S.C. 3376(a)(2). The regulations establish requirements for marking containers of fish or wildlife that are imported, exported, or transported in interstate commerce. The requirements are designed to be consistent with the existing commercial practices of those industries that must comply with them. The regulations make final, with minor revisions, proposed rules published on July 7, 1986 (51 FR 24559).

EFFECTIVE DATE: December 28, 1987.

FOR FURTHER INFORMATION CONTACT: Thomas L. Streigler, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, P.O. Box 28006, Washington, DC 20005, telephone: (202) 343-9242; Patricia Kraniotis, NOAA Office of General Counsel (GCEL), Suite 607, 1825 Connecticut Avenue NW., Washington, DC 20235, telephone: (202) 673-5220.

SUPPLEMENTARY INFORMATION:

Discussion

The Service and NOAA publish final regulations implementing section 7(a)(2) of the Lacey Act Amendments of 1981, 95 Stat. 1078, 16 U.S.C. 3376(a)(2). The regulations were published in proposed form on July 7, 1986 (51 FR 24559). Under 16 U.S.C. 3372(b), it is unlawful to import, export, or transport in interstate commerce, containers of fish or wildlife unless the containers have been marked in accordance with the regulations promulgated jointly by the Secretaries of the Interior and Commerce pursuant to 16 U.S.C. 3376(a)(2).

Section 14.81 [NOAA § 246.1] states the basic marking requirement. Each container of fish or wildlife must be marked with the name and address of the shipper and consignee, and the contents by species and number of each species. Section 14.82(a) [NOAA § 246.2(a)] contains alternative methods of satifying the marking requirement. Section 14.82(b) [NOAA § 246.2(b)] contains exemptions to the marking requirement for certain captive bred species, certain retail packages of fish or shellfish, and catches of fish or shellfish being landed by fishing vessels.

These final regulations are substantially the same as the proposed regulations. Modifications involve, for the most part, matters of clarification.

Section 14.82(a)(2) [NOAA § 246.2(a)(2)] sets forth one of the alternative methods of complying with the marking requirement. Language was added to this provision requiring that the letters "FWS" precede the import/export license number. This change will enable enforcement agents readily to identify the relevant number since containers typically display several numerical codes.

A sentence was added to § 14.82(a)(3) [NOAA § 246.2(a)(3)] providing that if live fish or wildlife are shipped in numbered subcontainers, the accompanying invoice must reflect such numbers. This is a common practice among dealers in live fish and wildlife as it aids in identification and document processing. The Service wishes to endorse this practice in the regulations since it is both helpful in identification and reflects current industry practice.

Section 14.82(a)(4) [NOAA § 246.2(a)(4)] was reworded simply to read more clearly. That section sets forth the circumstances under which a conveyance will not itself be considered to be a container. Where fish or wildlife within a conveyance are carried loosely or are readily identifiable, neither the fish or wildlife nor the conveyance itself need be marked, as long as the required documentation accompanies the shipment. Also, where the fish or wildlife within the conveyance are packaged and marked in accordance with the regulations, the conveyance itself is not considered a container.

Section 14.82(b)(2) [NOAA § 246.2(b)(2)] was reworded to make clear that the provision is not intended to incorporate the detailed requirements of the Food, Drug, and Cosmetic Act, 21 U.S.C. 301 *et seq.*, into the marking requirements. (This provision exempts fish or shellfish in retail consumer packages from the marking requirement.) This change was made in response to concerns voiced by the fish processing industry.

Response to Public Comments

One commenter raised several matters. First, the commenter indicated it was unclear whether or not fish that are offloaded from a fishing vessel and trucked to a processing plant are exempt from the marking requirement under § 14.82(b)(3) [NOAA § 246.2(b)(3)]. The commenter noted that because some fish are offloaded from vessels in cages or bags and trucked to processing plants, the provision might disrupt existing commercial practices. The marking requirement clearly applies in such a circumstance because the first are being transported beyond the point where they are fish offloaded from a fishing vessel. The Service and NOAA believe this provision should remain as proposed, and that it will not unduly disrupt commercial practices. First, since fish transported from dock to processor usually do not move interstate, the marking requirement will generally not apply to such transports. Second, since for fish transported in bags, such as oysters, various States already typically require that the bags be tagged, the marking requirement will not pose a significant additional burden. Finally, since caged fish are readily visible, the cages themselves need not be marked to satisfy the regulatory requirement as long as the required bill of lading (or similar document) accompanies the shipment [See § 14.82(a)(4) and § 246.2(a)(4)].

The same commenter recommended that in order to avoid duplication, fishermen and processors who are required to keep records and file reports under regulations implementing the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801–1882, be exempted from the marking requirement. The Service and NOAA do not accept this recommendation. The periodic reports required for some fisheries under the Magnuson Act do not elicit information with respect to individual shipments that the marking regulations are intended to elicit. For instance, 50 CFR 652.5 requires dealers to file with NOAA weekly reports of surf clam purchases.

Such reports are not useful for Lacey Act purposes since they may be filed long after individual shipments occur. The marking requirements, on the other hand, are intended to provide contemporaneous identification of the shipments in order to facilitate inspection.

The same commenter also recommended that proposed § 14.82(b)(2) and § 246.2(b)(2) be reworded to clarify that the provision is not intended to incorporate the detailed requirements of the Food, Drug, and Cosmetic Act. The Service and NOAA agree, and have reworded those sections accordingly.

Finally, this commenter noted potential difficulties with application of the marking requirement to products produced from menhaden meal and oil. While the regulations do apply to such products, because the marking requirements have been purposely written to consider industry practice, the agencies do not anticipate at this time that the requirements will impose an undue burden on the menhaden industry. Also, the exemption from the regulations for retail fish products in § 14.82(b)(2) and § 246.2(b)(2) will benefit the menhaden industry.

Another commenter suggested that shipments of tropical fish for the aquarium trade be exempted from the regulations. The Service and NOAA do not accept this recommendation. Since the Lacey Act in general applies to such fish, it is important that the marking regulations also apply.

Another commenter stressed the importance of retaining the provision in § 14.82(a)(2) [NOAA § 246.2(a)(2)] allowing use of the shipper's import/export license number to mark containers. The commenter also urged retention of the exemption for certain captive bred animals in § 14.18(b)(1) and § 246.2(b)(1). Both provisions are retained in the final rules.

A final commenter expressed approval of the proposed rules because they simplify the previous marking requirements and provided added flexibility.

Classification

The information collection requirements contained in § 14.81–14.82 [NOAA § 246.1–246.2] are approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018–0022. The collection of this information is required by 16 U.S.C. 3376(a)(2).

The Department of the Interior and the Department of Commerce have independently determined that this is not a major rule under Executive Order 12291 and have certified that the 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.*). The estimated effects of these regulations are minimized because the regulations are designed to take account of existing practices in the relevant industries. These determinations are discussed in detail in separate documents prepared by the agencies. Copies of the documents may be obtained from the persons identified above under **"FOR FURTHER INFORMATION CONTACT."**

These regulations have been categorically excluded from the National Environmental Policy Act requirements as a law enforcement activity under NOAA Directive 02–10. The Department of the Interior has concurred in this categorical exclusion. A copy of the concurrence may be obtained from the Service at the address indicated above.

Primary Authors

The primary authors of this rule are Kathleen King, Division of Law Enforcement, U.S. Fish and Wildlife Service, Washington, DC, and Patricia Kraniotis, NOAA Office of General Counsel, Washington, DC.

List of Subjects in 50 CFR Part 14

Exports, Fish, Imports, Labeling, Reporting and recordkeeping requirements, Transportation, Wildlife.

Final Regulation—Department of the Interior

For the reasons set out in the preamble, Subchapter B, Chapter I of Title 50, Code of Federal Regulations is amended as follows:

PART 14—IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

1. The authority citation for Part 14 is revised to read as follows:

Authority: 18 U.S.C. 42; secs. 5 and 6, Pub. L. 97-79, 95 Stat. 1077 and 1078 (16 U.S.C. 3375 and 3376); secs. 9(d)-(f) and 11(f), Pub. L. 93-205, 87 Stat. 894, 895, and 900 (16 U.S.C. 1538(d)-(f), 1540(f)); sec. 112, Pub. L. 92-522, 86 Stat. 1042 (16 U.S.C. 1382); sec. 3, Pub. L. 65-186, 40 Stat. 755 (16 U.S.C. 703); sec. 3(h)(3), Pub. L. 95-616, 92 Stat. 3112 (16 U.S.C. 712); Pub. L. 97-1581, 96 Stat. 1051 (31 U.S.C. 9701).

2. Amend Part 14 by revising Subpart H, §§ 14.81 and 14.82, and removing § 14.83, to read as follows:

Subpart H—Marking of Containers or Packages

Sec.
14.81 Marking requirement.
14.82 Alternatives and Exceptions to the marking requirement.

Subpart H—Marking of Containers or Packages

§ 14.81 Marking requirement.

Except as otherwise provided in this subpart, no person may import, export, or transport in interstate commerce any container or package containing any fish or wildlife (including shellfish) unless each container or package is conspicuously marked on the outside with both the name and address of the shipper and consignee and an accurate list of its contents by species and number of each species.

§ 14.82 Alternatives and exceptions to the marking requirement.

(a) The requirements of § 14.81 may be met by complying with one of the following alternatives to the marking requirement:

(1)(i) Conspicuously marking the outside of each container or package containing fish or wildlife with the word "fish" or "wildlife" as appropriate for its contents, or with the common name of its contents by species, and

(ii) Including an invoice, packing list, bill of lading, or similar document to accompany the shipment which accurately states the name and address of the shipper and consignee, states the total number of packages or containers in the shipment, and for each species in the shipment specifies:

(A) The common name that identifies the species [examples include: chinook (or king) salmon; bluefin tuna; and whitetail deer]; and

(B) The number of that species (or other appropriate measure of quantity such as gross or net weight).

The invoice, packing list, bill of lading, or equivalent document must be securely attached to the outside of one container or package in the shipment or otherwise physically accompany the shipment in a manner which makes it readily accessible for inspection; or

(2) Affixing the shipper's wildlife import/export license number preceded by the three letters "FWS" on the outside of each container or package containing fish or wildlife if the shipper has a valid wildlife import/export license issued under authority of 50 CFR Part 14. For each shipment marked in accordance with this paragraph, the records maintained under § 14.93(d) must include a copy of the invoice, packing list, bill of lading, or other similar document which accurately states the information required by paragraph (a)(1)(ii) of this section.

(3) In the case of subcontainers or packages within a larger packing container, only the outermost container must be marked in accordance with this section. Provided, that for live fish or wildlife that are packed in subcontainers within a larger packing container, if the subcontainers are numbered or labeled, the packing list, invoice, bill of lading, or other similar document, must reflect that number or label.

(4) A conveyance (truck, plane, boat, etc.) is not considered a container for purposes of requiring specific marking of the conveyance itself, provided that:

(i) The fish or wildlife within the conveyance is carried loosely or is readily identifiable, and is accompanied by the document required by paragraph (a)(1)(ii) of this section, or

(ii) The fish or wildlife is otherwise packaged and marked in accordance with this subpart.

(b) The requirements of § 14.81 do not apply to containers or packages containing—

(1) Fox, nutria, rabbit, mink, chinchilla, marten, fisher, muskrat, and karakul that have been bred and born in captivity, or their products, if a signed statement certifying that the animals were bred and born in captivity accompanies the shipping documents;

(2) Fish or shellfish contained in retail consumer packages labeled pursuant to the Food, Drug and Cosmetic Act, 21 U.S.C. 301 *et seq.*; or

(3) Fish or shellfish that are landed by, and offloaded from, a fishing vessel (whether or not the catch has been carried by the fishing vessel interstate), as long as the fish or shellfish remain at the place where first offloaded.

(Approved by the Office of Management and Budget under Control Number 1018-0022)

Date: August 14, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

Final Regulation—Department of Commerce

For the reasons set out in the preamble, Subchapter E, Chapter II of Title 50, Code of Federal Regulations is amended as follows:

1. Revise the title of Subchapter E to read as follows:

Subchapter E—Transportation of Fish or Wildlife

2. Add new Part 246 to read as follows:

PART 246—MARKING OF CONTAINERS OR PACKAGES

Sec.
246.1 Marking requirement.
246.2 Alternatives and exceptions to the marking requirement.

Authority: 16 U.S.C. 3371-3378.

§ 246.1 Marking requirement.

Except as otherwise provided in this Part, no person may import, export, or transport in interstate commerce any container or package containing any fish or wildlife (including shellfish) unless each container or package is conspicuously marked on the outside with both the name and address of the shipper and consignee and an accurate list of its contents by species and number of each species.

§ 246.2 Alternatives and exceptions to the marking requirement.

(a) The requirements of § 246.1 may be met by complying with one of the following alternatives to the marking requirement:

(1)(i) Conspicuously marking the outside of each container or package containing fish or wildlife with the word "fish" or "wildlife" as appropriate for its contents, or with the common name of its contents by species, and

(ii) Including an invoice, packing list, bill of lading, or similar document to accompany the shipment which accurately states the name and address of the shipper and consignee, states the total number of packages or containers in the shipment, and for each species in the shipment specifies:

(A) The common name that identifies the species [examples include: chinook (or king) salmon; bluefin tuna; and whitetail deer]; and

(B) The number of that species (or other appropriate measure of quantity such as gross or net weight).

The invoice, packing list, bill of lading, or equivalent document must be securely attached to the outside of one cor 'ainer or package in the shipment or otherwise physically accompany the shipment in a manner which makes it readily accessible for inspection; or

(2) Affixing the shipper's wildlife import/export license number preceded by the three letters "FWS" on the outside of each container or package containing fish or wildlife if the shipper has a valid wildlife import/export license issued under authority of 50 CFR Part 14. For each shipment marked in accordance with this paragraph, the records maintained under § 14.93(d) must include a copy of the invoice, packing list, bill of lading, or other similar document which accurately states the information required by paragraph (a)(1)(ii) of this section.

(3) In the case of subcontainers or packages within a larger packing container, only the outermost container must be marked in accordance with this section. Provided, that for live fish or wildlife that are packed in subcontainers within a larger packing container, if the subcontainers are numbered or labeled, the packing list, invoice, bill of lading, or other similar document, must reflect that number or label.

(4) A conveyance (truck, plane, boat, etc.) is not considered a container for purposes of requiring specific marking of the conveyance itself, provided that:

(i) The fish or wildlife within the conveyance is carried loosely or is readily identifiable, and is accompanied by the document required by paragraph (a)(1)(ii) of this section, or

(ii) The fish or wildlife is otherwise packaged and marked in accordance with this subpart.

(b) The requirements of § 246.1 do not apply to containers or packages containing—

(1) Fox, nutria, rabbit, mink, chinchilla, marten, fisher, muskrat, and karakul that have been bred and born in captivity, or their products, if a signed statement certifying that the animals were bred and born in captivity accompanies the shipping documents;

(2) Fish or shellfish contained in retail consumer packages labeled pursuant to the Food, Drug and Cosmetic Act, 21 U.S.C. 301 *et seq.*; or

(3) Fish or shellfish that are landed by, and offloaded from, a fishing vessel (whether or not the catch has been carried by the fishing vessel interstate), as long as the fish or shellfish remain at the place where first offloaded.

(Approved by the Office of Management and Budget under control number 1018–0022)

Date: November 20, 1987.

Bill A. Powell,

Executive Director, National Marine Fisheries Service.

[FR Doc. 87–27222 Filed 11–25–87; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 61113–7235]

Fishery Conservation and Management; Groundfish of the Gulf of Alaska

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

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has determined that the target quota (TQ) amount for the Pacific Ocean perch complex (POP) in the Eastern Regulatory Area (ERA) of the Gulf of Alaska will be taken by November 23, 1987. Directed fishing for and retention of POP is prohibited in the ERA from November 23, 1987, through December 31, 1987. This action is necessary to limit that harvest of POP to the amount permissible under Federal regulations implementing the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). This action is intended as a conservation and management measure that provides for full utilization of available groundfish resources off Alaska during 1987.

DATES: This Notice is effective at noon, November 23, 1987, Alaska Standard Time (AST), until midnight, AST, December 31, 1987. Comments are invited until December 8, 1987.

ADDRESSES: Send comments to Robert W. McVey, Director, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668.

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

SUPPLEMENTARY INFORMATION: The FMP governs the groundfish fishery in the exclusive economic zone in the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act Magnuson Act), and is implemented by regulations at 50 CFR Part 672. Section 672.2 defines the Western, Central, and Eastern Regulatory Areas in the Gulf of Alaska. Under § 672.20(a), TQ's were established for 1987 for each groundfish target species or species group and apportioned among the regulatory areas or districts. One species group is the POP, which consists of Pacific Ocean perch, and northern, rougheye, shortraker, and sharpchin rockfish. Its 1987 TQ in the ERA is 2,000 mt, which was apportioned entirely to domestic annual processing (DAP).

Since the ERA was reopened to trawling on September 22, several factory-trawlers and several longliners have targeted or are targeting on POP. The estimated catch through November 14 in the ERA is 1,880 mt. At current harvest rates, the TQ will be reached by November 23, 1987. Under § 672.20(c)(2)(i), if the Regional Director determines that the TQ for any target species or the "other species" category in any regulatory area or district has been or will be reached, directed fishing for that species will be prohibited and that species will be declared a prohibited species. Therefore, afternoon on November 23, further fishing for and retention of POP in the ERA is prohibited. Fishing for other groundfish species for which a quota is available in the ERA is permitted, but any catches of POP must be treated as a prohibited species and discarded at sea under § 672.20(e).

In making this decision, the Regional Director considered: (1) the risk of biological harm to POP stocks; (2) the risk of socioeconomic harm to authorized users of POP; and (3) the impact that a continued closure might have on the socioeconomic well-being of other domestic fisheries. The Regional Director made these findings: (1) There will be no threat of overfishing POP stocks because the only other directed fishery which would be expected to take substantial amounts of POP, that for "other rockfish", has been closed since July 15, and because bycatches of POP in other groundfish fisheries are expected to be negligible; (2) the long-term economic interests of authorized users of the POP fishery are protected because the stocks are protected from additional decline; and (3) a continued closure will have no significant impact on the socioeconomic well-being of other domestic fisheries since other species of fish and shellfish will not be significantly affected.

This closure will be effective when this notice is filled for public inspection with the Office of the Federal Register and after it has been publicized for 48 hours through procedures of the Alaska Department of Fish and Game. Public

comments on this notice may be submitted to the Regional Director for 15 days following its effective date.

Other Matters

Act current harvest rates, the POP TQ will be fully harvested by November 23, 1987. Therefore, the health of stocks of POP could be jeopardized unless this notice takes effect promptly. NOAA therefore finds for good cause that prior opportunity for public comment on this notice is contrary to the public interest and that its effective date should not be delayed.

This action is taken under § 672.20 and complies with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Dated: November 23, 1987.

James E. Douglas, Jr.,

Deputy Assistant Administrator For Fisheries, National Marine Fisheries Service.

[FR Doc. 87-27310 Filed 11-23-87; 2:57 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 52, No. 228
Friday, November 27, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 317 and 381

[Docket No. 86-037C]

Ingredients That May Be Identified as Flavors or Natural Flavors When Used in Meat or Poultry Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule; reopening of comment period; correction.

SUMMARY: This document corrects a notice which reopened the comment period on the proposed rule by noting that the Agency will accept oral comments to the proposed rule during the reopened comment period in accordance with the Poultry Products Inspection Act.

FOR FURTHER INFORMATION CONTACT: Margaret O'K. Glavin, Director, Standards and Labeling Division, Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION: On August 18, 1987, the Food Safety and Inspection Service (FSIS) published a proposed rule in the **Federal Register** (52 FR 30922) to amend the Federal meat and poultry products inspection regulations to require that certain substances added to meat and poultry products and identified only as flavors or natural flavors be identified on product labels by their common or usual name.

Following publication of the proposed rule, the Agency received comments for 60 days, and on October 23, 1987, published a notice in the **Federal Register** (52 FR 39658) which reopened the comment period for an additional 60 days. While the original proposed rule provided for presenting oral comments, the notice did not reiterate information concerning the reception of oral comments pursuant to the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*).

Accordingly, FSIS is now issuing this correction to inform the public that any person desiring an opportunity for an oral presentation of views on the proposed rule should make such request to Ms. Glavin at the address mentioned above so that arrangements can be made for such views to be presented.

Done at Washington, DC on: November 23, 1987.

Lester M. Crawford,

Administrator, Food Safety and Inspection Service.

[FR Doc. 87-27319 Filed 11-25-87; 8:45 am]

BILLING CODE 3410-DM-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Integrated Schedules for Implementation of Plant Modifications; Proposed Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed policy statement.

SUMMARY: This proposed policy statement describes the policy the Commission intends to use to promote voluntary licensee integrated schedules for implementing regulatory requirement and other improvements in nuclear power plants. Its primary focus concerns the ways licensees may establish integrated schedules to develop realistic schedules and the ways the Commission intends to interact with these licensees. It also documents the Commission's support for the establishment of integrated schedules at each nuclear power plant. Integrated schedules for plant modifications (1) will permit the NRC, the nuclear industry, and the public to forecast and maintain longer-term schedules and (2) will permit more effective use of licensee resources to implement these plant changes and NRC resources to review them.

DATE: The comment period expires on January 25, 1988. Comments received after that date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSES: Submit comments, suggestions, or recommendations to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC. 20555, Attention: Docketing and Service Branch. Comments may also be delivered to Room 1121, 1717 H Street, NW., Washington, DC, between 7:30 a.m. and 4:15 p.m. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Suzanne C. Black, Section Chief, Technical Policy and Support Section, Policy Development and Technical Support Branch, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-492-7628.

SUPPLEMENTARY INFORMATION:

Background

On May 3, 1983, the Commission issued the first integrated schedule plan, which was incorporated as a condition of the Duane Arnold Energy Center (DAEC) operating license. On May 9, 1983, the Commission issued Generic Letter (GL) 83-20, which informed the industry of the DAEC amendment and invited other utilities to participate in similar programs on a voluntary basis.

The NRC issued similar amendments to the Pilgrim Nuclear Power Station operating license on July 13, 1984, and to the Big Rock Point Nuclear Power Plant operating license on February 12, 1986. On July 9, 1985, DAEC was granted a 2-year extension for its plan. The experience thus far with the DAEC and Pilgrim plans has demonstrated that integrated schedules can help optimize the use of both NRC and licensee resources with regard to scheduling modifications, while maintaining plant safety, reliability, and availability.

On May 2, 1985, the NRC issued GL 85-07 to describe the NRC staff's intentions regarding integrated schedules and to solicit widespread industry participation in the development of appropriate procedures to establish and maintain integrated schedules. As part of GL 85-07, a survey was taken to determine industry interest. Of the 48 responses received, 21 licensees representing 50 reactors indicated an interest in integrated schedules that involved staff review or

approval of the program. An additional 27 licensees representing 42 plants indicated that they were not interested n submitting such a program for staff review. Only six licensees representing seven plants indicated that they did not employ or intend to employ an integrated scheduling process. Thus, with these Generic Letters, 83–20 and 85–07, the NRC has sought increased industry participation in this concept, but has only minimal success.

On October 25, 1985, the NRC staff participated in an industry seminar to obtain a better understanding of the industry's perspective on integrated schedules. One of the main concerns voiced by industry representatives was the lack of guidance from the Commission regarding the preparation and implementation of integrated schedules. Many licensees were apprehensive about participating in a voluntary program without clear criteria or standards for evaluating integrated schedules.

Consequently, the NRC has developed this policy statement to

- Reiterate the Commission's interest and support for a voluntary integrated scheduling process at each nuclear power plant,
- Describe the basic approach for the implementation of integrated schedules,
- Initiate a dialogue with industry to develop basic criteria and procedures for the evaluation of an integrated scheduling process, and
- Delineate the NRC's role in the integrated scheduling process.

Proposed Commission Policy

The Commission believes the implementation of integrated schedules on a plant-specific basis would provide a systematic means of coordinating, managing and scheduling major modifications initiated by both NRC and its licensees. An integrated scheduling process could enhance timely compliance with regulatory requirements and at the same time accommodate licensee-initiated modifications. A major benefit of an integrated schedule plan is the flexibility in integrating implementation schedules as new projects arise. In addition, the capability of providing a consistent basis for forecasting and scheduling future plant modifications may improve public confidence in the industry's attention to plant safety.

For the purpose of this Policy Statement, three categories of plants are considered:

1. Plants with an integrated scheduling license amendment;
2. Plants with an integrated scheduling plan submitted to the NRC, but without a license amendment; and
3. Plants without a submitted, integrated scheduling plan.

Because of the positive experience with the integrated scheduling programs of both the Duane Arnold Energy Center and the Pilgrim Nuclear Power Station, the Commission believes that a license amendment may be an effective means of implementing these schedules. However, the Commission believes that an integrated scheduling plan, submitted for staff review although not as a license amendment, provides some consistent basis for negotiation of schedules. Licensees may refer to such a plan to support both proposed implementation schedules for new regulatory requirements and also changes to existing implementation schedules. Because such schedules lack the formality of a license condition, any changes would be resolved on a case-by-case basis.

The regulatory intent of the license amendment is to provide assurance that NRC-required activities are scheduled and completed consistent with the optimum use of licensee resources. When circumstances warrant, the Commission can impose new deadlines with the understanding that they could affect the completion dates of other regulatory requirements or other licensee projects already scheduled. However, no schedule exemption for the implementation of new NRC requirements would be required for those plants with a license amendment. Other changes in the schedule could be made by licensees for good cause and with prior notification to the NRC. The existing integrated scheduling license amendments give the licensee the flexibility to change schedules, as needed, by delays beyond the licensee's control or by the imposition of new regulatory requirements.

The Reactor Project Managers will have the overall responsibility for evaluating and approving the integrated scheduling license amendments and for reviewing plans submitted to the NRC without a license amendment. The Project Managers must have an understanding of the scheduling processes and plans and an overview of ongoing activities at the plant to ensure that licensees are establishing realistic and timely implementation schedules. In addition, Project Managers will review the prioritization criteria, schedules, and scope in view of NRC schedules for generic issues and multiplant actions, licensee priorities, and open plant-specific action items. When necessary, the Project Managers will seek advice from various NRC offices regarding the appropriateness of specific implementation schedules. Final resolution of any conflicts with licensees will be determined by the Director of Nuclear Reactor Regulation and senior utility management.

The major elements of an integrated scheduling process may include:

1. A systematic process for identifying and defining those activities to be scheduled;
2. A process for prioritizing and scheduling the individual actions, taking into account factors such as safety, plant availability, radiation exposure, procurement requirements, and costs;
3. A plan for maintaining and updating implementation schedules;
4. A provision for NRC review of the prioritization and scheduling process and approval of the plan and initial schedule; and
5. A process for evaluating a licensee's maintenance of schedules through the issuance of periodic reports on actions completed, schedules for new actions, and schedule changes as a result of new actions and/or implementation problems.

As a minimum, the integrated schedule should include all NRC-initiated plant modifications, whether mandated (as in a rule, regulation, or order) or committed to by the licensee (originating in a generic letter or bulletin, for example). The extent to which a licensee wishes to include additional items not directly associated with plant modifications initiated by the NRC, such as regional inspection follow-up items or engineering analysis activities, is a matter of the licensee's discretion and overall program goals.

Licensee-initiated plant changes would only appear on the schedule as necessary to permit an overall understanding as to how they are being integrated with the NRC initiatives. For example, for a licensee-initiated modification that can be installed independently of ongoing NRC work, required activities would not be expected nor need to appear on the integrated schedule at all. Furthermore, if the licensee found it necessary to revise a schedule for one of its plant betterment modifications and the schedule could be revised without impacting the completion date for NRC-required activities, prior notification with written follow-up notification would be unnecessary, even though the item appeared on the integrated schedule.

A fundamental premise of the integrated scheduling process is that plant modifications can and should be

prioritized. This principle can also apply to design engineering and analysis efforts that require substantial resources for an extended period of time. The prioritization of these activities can provide a consistent and defensible basis for the initial implementation schedule and for negotiating future changes or additions. As the prioritization methodology will be based on a number of factors, many of which will be plant specific, the Commission has concluded that the selection of the prioritization methodology should be decided by the licensee. However, because of the importance of the prioritization methodology in the integrated scheduling process, it is essential that the NRC staff clearly understand the methodology.

Although the integrated scheduling process will be established by the licensee, it will be incumbent on the licensee to provide a comprehensive description of the process to the NRC. Because of the financial aspects of many of the specific scheduling activities (e.g., planning, estimating, procuring, funding, and personnel constraints), it would be inappropriate for the Commission to become involved in the licensee's financial planning or to establish acceptability criteria for scheduling these activities. However, the Commission must understand the planning and scheduling practices associated with any integrated schedule plan.

To assist licensees in their efforts to develop integrated schedules for plant modifications, draft guidelines are provided here for consideration but are not presumed to be all inclusive. NRC staff will continue to work with the licensees to clarify the guidelines, including the appropriate inspection and enforcement policies. When clarification has progressed to a sufficient point, the Commission will publish them to further encourage the development and application of integrated scheduling plans.

Draft Suggested Elements of a Plan for the Integrated Scheduling of Plant Modifications

I. Introduction

A. Purpose of Program

1. To effect management of plant modifications required or proposed by NRC and identified by the licensee

B. Goals

1. To conform to regulatory requirements
2. To provide lead time for modifications
3. To effectively manage financial and human resources

C. Elements of Program

1. Scheduling
2. Addition of new items
3. Interface with NRC
4. Evaluation

D. Duration of Program (years)

II. Program Basis

A. Prioritization Criteria

1. Safety significance
2. Budget projections
3. Site manpower
4. Engineering support
5. Management resources
6. Plant availability
7. Procurement requirements
8. Radiation exposure
9. Costs
10. Others

B. List of Prioritized Work Items

C. Interface with NRC

1. Review
2. Approval

III. Scheduling

A. Selection of Scheduling Techniques

1. To integrate NRC-required modifications with utility's requirements for plant modifications, maintenance, refueling, operations
2. To identify critical paths
3. To consider interrelationships among projects
4. To consider constraints imposed by engineering support and site manpower limitations
5. To accommodate unforeseen delays (e.g., procurement, strikes, fuel cycle schedule changes)
6. To provide for coordination of plant modifications with revisions to plant operating procedures and operator retraining

B. Categories of Tasks

1. Items mandated by NRC rules, orders, license conditions
2. Regulatory items identified by NRC, resulting in plant modifications, procedure revisions, or changes in staffing requirements or tasks mandated by other agencies or prospective NRC requirements
3. Licensee-identified changes for operational improvement

C. Procedures for Modifying Schedules

1. Add new NRC requirements
2. Account for delays (e.g., procurement)
3. Change scope
4. Include NRC inspection followup items
5. Assess impact on completion of scheduled items
6. Licensee-identified changes for operational improvement

D. Updating/Assessment of Scheduling

1. Frequency
2. Identification of completed and delayed items
3. Evaluation of scheduling process
4. Evaluation of causes for delay

E. Interface with NRC

1. Review
2. Approval

IV. Addition of New Items

A. Assess Priority

1. Prioritization criteria
2. Relationship to items already prioritized

B. Avoid Rescheduling of Other Items

C. Alter Schedule of Least Significant Items

D. Maintain Optimum Integrated Program

E. Interface with NRC

V. Evaluation of Integrated Schedule Program

A. Frequency

B. Success in Meeting Goals

C. Interface with NRC

The Commission specifically requests public comments on the value of integrated schedules as a planning tool for utilities; the advantages and disadvantages of a negotiated commitment on scheduling of the implementation of regulatory requirements; the value of having the schedule become a license amendment; and additional options for implementation of integrated schedules.

Dated at Washington, DC, this 20th day of November, 1987.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 87-27211 Filed 11-25-87; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 505

[No. 87-1186]

Availability and Character of Records

Date: November 19, 1987.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank ("Board") proposes to amend its public access to information regulations on fees and fee waivers in order to comply

with the Freedom of Information Reform Act of 1986 ("FOI Reform Act"). The Board's regulations are issued in conformance with Office of Management and Budget ("OMB") guidelines and schedule of fees.

DATE: Comments on this proposal must be received by December 28, 1987.

ADDRESS: Send comments to Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: William Van Lenten, Assistant General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552, (202) 377-6773.

SUPPLEMENTARY INFORMATION: The Freedom of Information Reform Act of 1986 (Pub. L. No. 99-570) amended the Freedom of Information Act "(Pub. L. 5 U.S.C. 552) by expanding the FOIA exemption for law enforcement records (effective upon enactment) and by modifying the provisions for the charging and waiver of fees. The fee schedule included in this proposal conforms to the final guidelines published by OMB on March 27, 1987 (52 FR 10011).

Pursuant to the FOI Reform Act and the final OMB guidelines, the Board proposes to set fees to recover the full direct costs incurred by the Board in searching for, reviewing, and duplicating documents in response to FOIA requests. In compliance with the FOI Reform Act, requesters are classified into four categories for the purposes of making fee assessments: commercial use requesters; educational and noncommercial scientific institution requesters; representatives of the news media; and all other requesters.

To prevent abuse of the provisions granting 100 pages of duplication and two hours of search time free of charge, this rule incorporates the OMB guidelines permitting aggregation of requests that are reasonably believed to have been broken down to evade fees. The proposed rule also provides for the Board to require advance payment of fees if the total fees are estimated to exceed $250, or where a requester has previously failed to make timely payment of fees due. In accordance with the OMB guidelines, the Board may permit interest to be charged on fees over 30 past due at the rate prescribed in 31 U.S.C. 3717.

The proposed rule establishes a new schedule of fees chargeable to FOIA requesters. New fees are established for manual search, computer search, and review of records. Duplication fees are determined based upon whether the record requested is an existing paper record (flat per page duplication fee) or is in a form other than paper, such as computer stored information, audio tape, or microfiche (fee covers actual cost of duplication, except for certain types of duplication charged as a flat fee). The proposed amendments also provide for recovery of actual costs of providing special services, such as certification of records and express mail. The proposed amendments also provide that requests falling under the Privacy Act or the Government in the Sunshine Act are assessed fees in accordance with those acts rather than under the FOIA.

The FOI Reform Act requires that fees shall be waived or reduced where the 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. The rule sets forth the required contents of a request for a waiver or reduction of fees and the factors the Board will consider in determining whether to grant the request in whole or in part.

Initial Regulatory Flexibility Analysis: Pursuant to section 3 of the Regulatory Flexibility Act, 5 U.S.C. 603, the Board is providing the following regulatory flexibility analysis:

1. *Reasons, objectives, and legal basis underlying the proposed rule.* These elements are incorporated above in **SUPPLEMENTARY INFORMATION.**

2. *Small entities to which the proposed rule would apply.* The proposed rule will apply to all small entities requesting documents or information from the Board under the Freedom of Information Act.

3. *Impact of the proposed rule on small entities.* The proposed rule would not have a significant or disproportionate economic impact on small entities.

4. *Overlapping or conflicting federal rules.* There are no known federal rules that duplicate, overlap, or conflict with this proposal.

5. *Alternatives to the proposed rule.* No alternative to the rule would better attain the objective of the proposal.

List of Subjects in 12 CFR Part 505

Freedom of information.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend Part 505, Subchapter A, Chapter V, Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER A—GENERAL

Part 505—Availability and Character of Records

1. The authority citation for Part 505 continues to read as follows:

Authority: Sec. 552, 80 Stat. 383, as amended (12 U.S.C. 552); sec. 11, 47 Stat. 733, as amended (12 U.S.C. 1431); sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 402, 48 Stat. 1256, as amended (12 U.S.C. 1725); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1947 Supp., 1943-48 Comp., p. 1071.

2. Amend § 505.4 by revising paragraphs (d) and (e) to read as follows:

§ 505.4 Access to records.

* * * * *

(d) *Requests for records and other information.* (1) Address all requests for: Individual institution quarterly financial reports; annual branch office reports; or unpublished statistical information, to: Office of Policy and Economic Research, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552. Requests must be in writing and include the name, address, and telephone number of the requester, in addition to the specific description of the records requested. A request for data concerning one or more individual institutions should include each institution's accurate and complete name, home office address, and dates for specific data requested. Geographical requests should specify the county and/or state in which the institutions or offices are located, as well as the dates for specific data requested.

(2) Requests for access to, or copies of, other records and information of the Board must be submitted in writing to the Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552. A request should clearly state that it is made pursuant to the Freedom of Information Act. A request should state the full name and address of the person making the request and a description of the records or other information sought that is resonably sufficient to permit identification of responsive records without undue difficulty. A request for a specific category of records shall be regarded as fulfilling this requirement if it enables responsive records to be identifying by a technique or process that is not unreasonably burdensome or disruptive of agency actions. If it is determined that a request does not

reasonably describe the records sought, the Director of the Secretariat or his or her designee shall be advise the requester that additional information is needed.

(3) The Board may provide records and information to the National Technical Information Service ("NTIS") of the U.S. Department of Commerce for dissemination to requesters seeking such records or information. All requests for computer tapes containing quarterly financial and branch office data by commercial use requesters should be made directly to NTIS. When other records have been provided to NTIS, requesters shall be informed of the steps necessary to obtain such records.

(e) *Fees for providing copies of records.* Fees shall be assessed pursuant to 5 U.S.C. 552 in order to recover the full allowable direct costs of providing copies of records. For purposes of this section, the term "direct costs" means those expenditures which the Board actually incurs in searching for and duplicating (and in the case of commercial use requesters, reviewing) documents to respond to a Freedom of Information Act ("FOIA") request. Direct costs include, for example, the salaries of the employees performing the work (the basic rate of pay plus 16 percent of that rate to cover benefits) and the cost of operating duplicating equipment. A schedule based on these principles is set forth in paragraph (e)(9) of this section. 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. Searches may be done manually or by computer using existing programming. The term "duplication" refers to the process of making a copy of a document necessary to respond to a FOIA request. Such copies can take the form of paper copy, microfilm, audio-visual materials, or machine readable documentation (e.g., magnetic tape or disk), among others. The term "review" refers to the process of examining documents located in response to a commercial use request 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. The term "Board" refers to the Federal Home Loan Bank Board or any of its members, officers, employees, or agents responsible for the implementation of § 505.4.

(1) *Categories of requesters.* Fees will be assessed according to the category of the requester. There are four categories:

(i) *Commercial use requesters.* For purposes of this section, 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. In determining whether a requester properly belongs in this category, the Board will look to the use to which the requester will put the documents requested. If the use is not clear from the request itself, or if there is reasonable cause to doubt the requester's stated use, the Board shall seek additional clarification before assigning the request to a specific category.

(ii) *Educational and noncommercial scientific institution requesters.* For purposes of this section, the term "educational institution" refers to a pre-school, 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, or an institution of vocational education, which operates a program or programs of scholarly research. The term "noncommercial scientific institution" refers to an institution that is not operated on a "commercial" basis, as that term is used in paragraph (e)(1)(i) 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. To be eligible for inclusion in this category, requesters must show that the request is made as authorized by and under the auspices of a qualifying institution, and that the records are not sought for a commercial 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.

(iii) *Requesters who are representatives of the news media.* For purposes of this section, 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 make their products available for purchase or subscription by the general public. These examples are not intended to be all-inclusive. In the case of "freelance" journalists, they may be regarded as working for a news organization if they 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 Board may also look to the past publication record of a requester in making this determination. To be eligible for inclusion in this category, a requester must meet the criteria above, 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.

(iv) *All other requesters*—(2) *Limitations on fees to be charged*—(i) *Commercial use requesters.* Commerical use requesters shall be assessed the full direct costs for searching for, reviewing, and duplicating records, in accordance with the fee schedule at paragraph (e)(9) of this section. Commercial use requesters are not entitled to the free search time or free pages of duplication provided to other categories of requesters.

(ii) *Educational and noncommercial scientific institution requesters.* Requesters in this category may be assessed fees only for duplication of records in excess of the first 100 pages. Requesters in this category may not be assessed fees for search or review.

(iii) *Requesters who are representatives of the news media.* Requesters in this category may be assessed fees only for duplication of records in excess of the first 100 pages. Requesters in this category may not be assessed fees for search or review.

(iv) *All other requesters.* Requesters who do not fit into any of the categories above shall be assessed fees only for searching and duplicating records, except that the first 100 pages of dulication and the first two hours of search time shall be furnished without charge. Requesters in this category may not be assessed fees for review.

(v) *Review of records.* Charges will be assessed only for the initial review of the located documents and not for time spent at the administrative appeal level on an exemption applied at the initial determination level. However, where

records or portions of records are withheld in full under an exemption which is subsequently determined not to apply, and these records are reviewed again to determine the applicability of other exemptions not previously considered, charges for review are properly assessable.

(vi) *Additional Copies.* The Board will normally furnish only one copy of any record. The allowance of 100 free pages of duplication under paragraphs (e)(2)(ii), (iii), and (iv) of this section shall not apply to additional copies furnished at the request of the record requester. Full duplication fees shall be assessed for each page of each such additional copy.

(vii) *Requests under the Privacy Act.* Requests from individuals for records about themselves filed in a system of records maintained by the Board will be treated under the fee provisions of the Privacy Act of 1974 (5 U.S.C. 552a) ("Privacy Act") and § 505a.10 of this subchapter. Under the Privacy Act, fees may be assessed only for duplication. Fees may not be assessed for search or review.

(viii) *Requests under the Sunshine Act.* Requests for copies of transcripts or minutes, or for transcription of electronic recordings of Board meetings or portions of Board meetings closed to the public, will be treated under the fee provisions of the Government in the Sunshine Act (5 U.S.C. 552b) ("Sunshine Act") and Part 505b of this subchapter. Under the Sunshine Act, fees may be assessed to recover the actual cost of duplication or transcription. Fees may not be assessed for searching for and reviewing transcripts, minutes, or recordings. Unless otherwise provided, fees for duplication or transcription of records pursuant to a Sunshine Act request shall be assessed in accordance with the fee schedule at paragraph (e)(9) of this section.

(ix) *Collection and processing costs.* A fee may not be assessed if the routine costs of collection and processing of the fee are likely to equal or exceed the amount of the fee.

(3) *Charges for unsuccessful search.* Where applicable under paragraph (e)(2) of this section search fees may be assessed for time spent searching, even if the agency fails to locate the records or if records located are determined to be exempt from disclosure.

(4) *Notice of anticipated fees in excess of $25.00.* When it is estimated that the fees to be assessed under paragraph (e)(9) of this section may amount to more than $25.00, the requester shall be notified as soon as practicable of the estimated amount of the fees, unless the requester has indicated in advance his willingness to pay fees as high as those anticipated. Such a notice shall offer the requester the opportunity to confer with Board personnel with the object of reformulating the request to meet his or her needs at a lower cost.

(5) *Advance payments.* (i) When it is estimated or determined that the fees to be assessed are likely to exceed $250.00, the requester shall be notified. When the requester has a history of prompt payment of FOIA fees, the Board shall obtain a satisfactory assurance of full payment of fees from the requester. When the requester has no history of payment, the requester shall be required to make an advance payment of the full estimated charges.

(ii) When 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), unless the requester can sufficiently demonstrate that the fee has been paid, the requester must pay the Board the full amount owed plus any applicable interest as provided in paragraph (e)(6) of this section, and make an advance payment of the full amount of the estimated fee before the Board begins to process a new request or a pending request from that requester.

(iii) When the Board acts under paragraph (e)(5)(i) or (ii) of this section the administrative time limits prescribed in paragraph (a)(6) of the FOIA will commence only after the Board has received the fee payments described above.

(6) *Charging interest.* The Board will assess interest charges on any unpaid fees starting on the 31st day following the day on which the billing for fees was sent to the requester. Interest will be at the rate prescribed in 31 U.S.C. 3717 and will accrue from the date of the billing. Receipt of the fee by the Board, even if not processed, will stay the accrual of interest. Interest is not chargeable for unpaid advance payments under paragraph (e)(5) of this section.

(7) *Aggregating requests.* A requester may not file multiple requests at the same time, each seeking portions of the document or documents, solely in order to avoid payment of fees. When the Board reasonably believes that a requester, or a group of requesters acting in concert, is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the Board may aggregate any such requests and charge accordingly.

(8) *Waiver or reduction of fees.* The Board will furnish documents without charge or at a reduced charge when it is determined that 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. In determining whether disclosure is in the public interest, the following factors may be considered:

(i) The relationship of the records to the operations or activities of the Board;

(ii) The informative value of the information to be disclosed;

(iii) Any contribution to an understanding of the subject by the general public likely to result from disclosure;

(iv) The significance of that contribution to the public understanding of the subject;

(v) The nature of the requester's personal interest, if any, in disclosure; and

(vi) Whether the disclosure would be primarily in the requester's commercial interest.

In making a request for a waiver or reduction of fees, a requester should include a clear statement of his or her interest in the requested documents; the proposed use for the documents and whether the requester will derive income or other benefit from such use; a statement of how the public will benefit from such use and from the Board's release of the requested documents; and if specialized use of the documents or information is contemplated, a statement of the requester's qualifications that are relevant to the specialized use. The burden shall be on the requester to present evidence or information in support of a request for waiver or reduction of fees. Determinations concerning waiver or reduction of fees shall be made as follows: by the Director, Office of Policy and Economic Research, or his or her designee for requests involving the types of records and information listed in pagrapraph (d)(1) of this section; by the Director of the Secretariat or his or her designee for all other types of records or information. Appeals from such determinations shall be decided by the General Counsel.

(9) *Schedule of fees.* Fees for searching for, reviewing duplicating, and providing records and information of the Board under this section will be assessed in accordance with the following schedule:

(i) *Manual search.* For each quarter hour or fraction thereof: $4.00.

(ii) *Computer search.* For each quarter hour or fraction thereof: $4.00.

(iii) *Review.* For each quarter hour or fraction thereof: $6.00

(iv) *Duplication.* (A) For a paper photocopy of an existing paper record, $.30 per page.

(B) For duplication of records other than existing paper records (such as computer-stored information, audio or video tapes, microfiche or microfilm), the fee shall equal the actual direct cost of production and duplication of the records or information in a form that is reasonably usable by the requester, except that agency-wide average charges are established for the following:

(*1*) For a paper copy of a microfiche record, $.30 per page;

(*2*) For a computer printout on paper of financial reports of individual institutions (including unpublished aggregates of those reports), $3.00 per report; and

(*3*) For transcription of audio tape, $4.50 per page.

(v) *Other charges.* Complying with requests for special services associated with providing records (e.g., certifying that records are true copies, supplying special computer tabulations, or sending copies by special methods such as express mail or messenger) is entirely at the disretion of the Board and fees will be assessed to recover the full costs of providing such services.

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By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87-27320 Filed 11-25-87; 8:45 am]

BILLING CODE 6720-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 3

Registration Requirements for Futures Commission Merchants, Introducing Brokers, Commodity Pool Operators, Commodity Trading Advisors, Leverage Transaction Merchants and Their Associated Persons

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is proposing amendments to its rules governing the registration under the Commodity Exchange Act, 7 U.S.C. *et seq.* ("Act"), of futures commission merchants, introducing brokers, commodity trading advisors, commodity pool operators and the associated persons of such registrants by the National Futures Association ("NFA") and the registration of leverage transaction merchants and their associated persons by the Commission. This action is being taken in order to authorize the implementation of certain registration rules which have been submitted by NFA for Commission approval and thereby eliminate any inconsistency between the Commission's rules and those of NFA. The proposed amendments specifically are intended to streamline the registration process by narrowing the circumstances requiring a new registration, eliminating the annual renewal of registrations, eliminating the use of certain forms, authorizing NFA to process withdrawals from registration, and implementing a temporary licensing procedure for persons changing sponsors within a 60-day period.

DATE: Comments must be submitted on or before December 28, 1987.

ADDRESS: Comments should be submitted to the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to Part 3-Registration.

FOR FURTHER INFORMATION CONTACT: Robert H. Rosenfeld, attorney, Division of Trading and Markets at the above address. Telephone (202) 254-8955.

SUPPLEMENTARY INFORMATION:

I. Introduction

By letter dated July 2, 1987, NFA submitted for approval, pursuant to section 17(j) of the Act, proposed Registration Rules of NFA.[1] This **Federal Register** release addresses proposed Commission rule amendments which will be required to authorize certain of the procedures in the NFA registration rules, subject to approval of NFA's rules by the Commission.

To date, the Commission has delegated to NFA certain registration responsibilities with respect to futures commissions merchants ("FCMs"), introducing brokers ("IBs"), commodity trading advisors ("CTAs"), commodity pool operators ("CPOs"), those registrants' associated persons ("APs"), and floor brokers pursuant to section 8a(10) of the Act.[2] Sections 8a(10) and 17(o)(1) of the Act authorize NFA to perform these registration responsibilities pursuant to rules adopted by NFA and approved by the Commission. NFA has adopted, and the Commission has approved, rules which provide that NFA generally will perform the various registration responsibilities pursuant to Part 3 of the Commission's regulations. NFA also has exercised its authority under the Act by adopting bylaws setting forth certain NFA proficiency requirements, as well as procedures for denying, conditioning, suspending, restricting, and revoking registrations.

In an effort to streamline the registration process and to identify in one set of rules all requirements necessary to become registered under the Act, proficiency requirements necessary to become registered with NFA as an Associate, as well as NFA registration procedures, NFA has adopted a new compilation of all Commission and NFA rules governing the registration process. These rules essentially restate existing Commission registration requirements (as well as NFA proficiency requirements). However, as explained in more detail below, these rules also introduce numerous substantive procedures which are intended by NFA to facilitate the registration process under the Act but which currently are not provided for by the Commission's registration rules.

Given the extensive review and comment as to the proposed NFA Rules by NFA membership,[3] as well as the

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[1] Copies of the NFA rules submitted for Commission review may be obtained upon request from the Commission's Office of the Secretariat at the above address.

[2] On August 1, 1983, the Commission delegated to NFA and NFA assumed responsibilities for processing and granting applications for initial and renewal registrations of introducing brokers and their associated persons. 48 FR 35158 (August 3, 1983). Subsequently, on December 3, 1984 NFA was delegated such responsibilities by the Commission with respect to the registration of FCMs, CPOs, CTAs, and APs of such registrants. 49 FR 39593 (October 9, 1984); 49 FR 45418 (November 16, 1984). On August 22, 1985, the Commission authorized NFA to conduct proceedings to deny, condition, suspend, restrict or revoke the registration of any person applying for registration or registered as an FCM, IB, CPO, CTA or AP of such registrant who is or may be subject to a statutory disqualification under sections 8a(2)-8a(4) of the Act. 50 FR 34885 (August 28, 1985); 50 FR 39080 (September 27, 1985). On September 23, 1986, the Commission authorized NFA to process and grant applications for registration with the Commission as floor brokers. 51 FR 34490 (September 29, 1986).

[3] The Executive Committee of NFA reviewed a first draft of the Registration Rules (the "Rules") at its meeting on January 15, 1987. This draft was developed by NFA staff with the participation of the Commission's Division of Trading and Markets (the "Division"). NFA staff worked closely with the Division throughout the rule development process. After suggesting certain minor revisions to the Rules, the Executive Committee authorized staff to release the Rules for comment. NFA staff sent a Notice to NFA Members (the "Notice") during the week of February 2, 1987, which explained and sought comment on the substantive changes that the Rules made to the Commission's Part 3 regulations.

In response to the Notice, NFA received comments from eight Members and from a law firm representing the National Association of Futures Trading Advisors. NFA also received comments from its Advisory Committees, all exchanges, and the Association of Registration Managers. All of the

Continued

comments and suggestions by Commission staff during the development of those Rules, the Commission preliminarily views the proposed NFA Rules positively. (Such proposed Rules remain, however, subject to Commission review and possible refinement.) As noted previously, however, certain of the procedures appearing in the NFA Rules are not currently provided for in the Commission's registration rules. Accordingly, in order to facilitate the early implementation of the NFA Rules upon their ultimate review and approval by the Commission,[4] the Commission is now proposing certain amendments to Part 3 of its regulations governing registration which are intended to eliminate any inconsistency between the Commission's rules and those new registration procedures as reflected in the NFA Rules currently before the Commission for approval. For consistency, amendments also are being proposed for Commission rules governing leverage transaction merchants and their associated persons, whose registrations will continue to be processed by the Commission and not NFA. The Commission specifically invites comment concerning the appropriateness of the Commission's proposed rule amendments which will make possible the implementation of the new NFA registration procedures.

II. Explanation of Proposed Commission Rule Amendments

1. Continuous Registration of FCMs, CTAs, CPOs, IBs and LTMs—§§ 3.10, 3.13, 3.14, 3.15 and 3.17; 3.2(d).

Currently, FCMs, CTAs, CPOs and IBs must renew their registrations annually. NFA believes, and the Commission agrees, that the regulatory objective of maintaining accurate registration files can be achieved without subjecting registrants to such repeated renewal applications. Proposed NFA Rule 204 would provide that an FCM, IV, CPO or CTA registration would remain effective until such registration is suspended, revoked, terminated or withdrawn. In order to implement Rule 204, the Commission is proposing to amend Commission rules 3.10(b), 3.13(b), 3.14(b) and 3.15(b) to conform to proposed NFA Rule 204. Commission rule 3.2 would be amended to remove paragraph (d), which currently requires yearly renewals of registration. Moreover, in order to maintain a consistent regulatory scheme, the Commission also is proposing similarly to amend Commission rule 3.17(b) to provide comparable treatment for registration as a leverage transaction merchant ("LTM").[5] (In this regard, the Commission will continue directly to process registrations of LTMs.)

In lieu of periodic registration renewals, proposed NFA Rule 204, however, would provide that FCMs, IBs, CTAs and CPOs will be required to file a properly completed Form 7–R with NFA annually. Moreover, in order to ensure that NFA files are not burdened with the files of registrants that have failed to withdraw but in fact no longer are acting in a capacity requiring registration (as well as to act as an incentive to compliance with the new procedure), proposed NFA Rule 204 would provide that the failure to file the annual update form with NFA within 30 days of the date that the form is due will be deemed to be a request for withdrawal from registration. On at least 30 days' written notice,[6] and following such action, if any, deemed necessary by the CFTC or NFA, NFA may grant the request for withdrawal from registration.[7] In order to facilitate compliance by registrants with this new filing procedure, NFA has stated that it will provide a preprinted form to be updated by registrants. Nevertheless, if the proposal is adopted, the Commission expects all registrants to be on notice of the new annual filing requirement and, in the event that they do not receive a preprinted form from NFA to contact NFA prior to the date their current registrations would expire or otherwise as notified by NFA, to obtain the required form.[8] (The Commission will send LTMs the required form.)

In order to implement this requirement, the Commission is proposing to require FCMs, CTAs, CPOs, and IBs to file a Form 7–R annually with NFA and, in the case of LTMs, annually with the Commission, as currently is required by those rules for renewal of registration. Thus, the Commission notes that the new procedure would not impose any new paperwork burden. *See* §§ 3.10(d), 3.13(c), 3.14(c), 3.15(c) and 3.17(c). It also should be noted that nothing in the proposed amendment would preclude a registrant who was deemed to have requested withdrawal from filing the Form–R and thereby revoking the withdrawal request during the period within which NFA contacts the registrant in order to obtain and analyze the financial and account information of §§ 3.33(b) and (c) which is a prerequisite for withdrawal.

2. Deletion of the New Registration Requirement for Changes in the Form of an Organization Where No New Principal Are Added—§ 3.32(a). Reporting of Such Changes—§ 3.31(a).

Pursuant to Commission regulation 3.32, 17 CFR 3.32 (1987), an FCM, IB, COP, CTA or LTM must obtain a new registration when a change occurs: in the form of the organization of the registrant; in the ownership of the business in the case of a sole proprietorship; in the personnel of a partnership resulting from the addition of a general partner; or in the control of the registrant in the case of a corporation. The regulatory objective of requiring a new registration in the above circumstances is to ensure that an appropriate background check and fitness review is undertaken for applicants or principal whenever a new person assumes a position of control over a registrant. These new persons are persons not listed on the registrant's initial registration application (Form 7–R) or any amendment thereto (Form 3–R).

Given this regulatory objective, NFA believes, and the Commission concurs, that a registrant should not be required to obtain a new registration when a registrant merely effects a change in the form of its organization and does not add any new principals. Thus, proposed NFA Rule 208 does not require a new registration for a change solely in the form of the organization of a registrant.

In order to allow the implementation of this proposed NFA Rule, the Commission proposes to amend Commission rule 3.32(a) by deleting the reference to changes in the form of organization of the registrant as a change requiring a new registration.

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comments strongly supported the changes proposed by the Rules. However, certain suggestions were made and were incorporated into the Rules adopted by NFA's Board of Directors. In light of such prior substantial comment, the Commission believes that a thirty day comment period on the proposed Part 3 amendments is appropriate.

[4] The Commission anticipates that such approval of NFA's Rules will be concurrent with adoption of final Commission rules amending Part 3 which are proposed herein.

[5] The Commission also proposes to amend Commission rule 3.32(h) by deleting references in that rule to §§ 3.10(b), 3.13(b), 3.13(b), 3.15(b) and 3.17(b) which, as explained above, would be deleted.

[6] Prior to this notice, the registrant will receive actual notice of the imputed withdrawal request when contacted by NFA for financial and account information specified by rule 3.33.

[7] *See* proposed § 3.33 and related text.

[8] Registrations currently expire in the following year at the end of the month in which an initial registration was granted. Thus, unless otherwise notified by NFA of a different schedule, registrants should be on notice that the annual update filing will be required on their current "expiration" date under the proposed rule amendments.

Moreover, the Commission proposes to incorporate the definitions of changes in control now described in rule 3.32(d) (1)-(5) into proposed rule 3.32(a).

In lieu of using the registration application process to apprise NFA of changes in the form of an organization, proposed NFA Rule 210 would require that such changes, as well as all deficiencies, inaccuracies and changes to application information, must be reported to NFA on Form 3–R. Moreover, proposed NFA Rule 210(a) would require that in the case of a Form 3–R filed by a registrant for purposes of reporting a change in the form of the organization, the Form 3–R must be accompanied by a letter certifying that that the newly formed organization will be liable for all obligations of the pre-existing organization arising out of the Act or regulations thereunder. In order to allow the implementation of such proposed Rule, the Commission is proposing to amend Commission rule 3.31(a), 17 CFR 3.31(a) (1987), to include such an assumption of obligations requirement by firms undergoing a change in the form of organization. The Commission believes that customer protection and market integrity concerns justify such an unambiguous assumption of obligations by newly reorganized firms.

3. Registrant Undergoing a Change of Control Due to the Addition of a New Principal May Continue to Do Business Under Certain Circumstances—§ 3.32(d).

Commission rule 3.32(a), 17 CFR 3.32(a) (1987), requires an FCM, IB, CPO, CTA or LTM to file a new registration in the event of a change in control as set forth in rule 3.32(a)(1)–(4). Rule 3.32 does not, however, provide for a transitional period available to such a registrant during which it may operate pending final action on its new registration. Under certain circumstances, the Commission's Division of Trading and Markets has permitted firms which were required by rule 3.32(a) to file a new registration to continue in business pending its new registration. Typically, relief was granted under circumstances where the new principals otherwise were registered in some capacity or were principals of another registrant. Such relief was premised upon the recognition that the Commission s customer protection concerns—*i.e.*, a fitness check of individuals—were met because those new principals already had under gone a fitness review. Proposed NFA Rule 208(b) would make standard the Commission's past exemptive practice by permitting registrants which are required to file a new registration application to continue in business under certain defined circumstances.

Accordingly, the Commission proposes to amend rule 3.32, 17 CFR 3.32 (1987), by revising in full the language of paragraph (d) which will incorporate the terms of proposed NFA Rule 208(b). This new provision will allow registrants which must file a new registration under rule 3.32(a) to continue in business until the earliest of: 90 days from the date that the change occurred; notification by NFA of the effectiveness of the new registration; or five days after service upon the registrant of a notice by NFA pursuant to proposed NFA Rule 504 that the registrant may be found subject to a statutory disqualification from registration. This provision would only apply under circumstances where the new principal was registered in some capacity or was a principal of another registrant.

4. Registrant Undergoing a Change of Control Due to the Addition of a New Director or Chief Executive Officer: Elimination of the 45 Day Prior Filing Requirement as a Condition of Avoiding a New Registration— § 3.32(e)(1).

Commission rule 3.32(e)(1) permits a corporate registrant to avoid obtaining a new registration when a change in control of such registrant occurs due to the addition of a director or chief executive officer ("CEO") or a person occupying a position of similar status or performing a similar function. To take advantage of this exemption, however, the registrant must file with NFA a Form 3–R at least 45 days prior to the date that such change is to occur and, pursuant to Commission rule 3.32(e)(2), the new CEO or director may not become a principal of the registrant until that registrant receives written confirmation from the Commission or NFA that such affiliation has been approved.

NFA Rule 208(c) would eliminate the 45-day prior filing period as a condition of avoiding a new registration when the change of control is due to the addition of a new director or CEO. NFA believes, and the Commission concurs, that there may be circumstances when NFA would be able to respond to a filing under rule 3.32(e)(1) in less than 45 days (such as when the new director or CEO already is registered or a principal of a registrant and has been subject to a fitness review). Moreover, in cases where NFA cannot respond in less than 45 days, Commission rule 3.32(e)(2) would prohibit the affiliation of the director or CEO until NFA has approved the affiliation in writing. Thus, under such circumstances, the 45 day pre-filing period operates as an impediment to the use of rule 3.32(e)(1).

Accordingly, the Commission proposes to implement the procedures of NFA Rule 208(c) by deleting the requirement that the Forms 3–R and 8–R be filed with NFA at least 45 days prior to the date that the addition of a director or chief executive officer will occur. Thus, under the proposed amendments, in the event of the addition of a new CEO or director, registrants may avoid a new registration requirement by making the filing under § 3.32(e)(1) prior to the change. If the added CEO or director already is registered or is a principal of a current registrant, the CEO or director may assume the position immediately subject to the filing procedure of proposed § 3.32(d).[9]

5. Eliminate the Form 8–S ("Certificate of Speical Registration for Certain APs") as a Filing Form Under the Special Registration Procedures.

Form 8–S currently is used to effect the special registration procedures of Commission rules 3.12(d) and 3.16(d). Special registration allows a person who currently is registered as an AP or an person whose registration as an AP has terminated within the preceding 60 days to be registered as an AP of a new sponsor upon mailing to NFA of a properly completed Form 8–S. The Form 8–S contains the sponsor and applicant certifications required under both Commission rules. A person registered as an AP upon mailing of the Form 8–S is required to submit a properly completed Form 8–R and legible fingerprints to NFA within 60 days of the mailing of the Form 8–S.

In an attempt to improve the efficiency of the special registration procedures, the Commission adopted revisions to the Form 8–R to permit it to be used as the only filing form in the special registration process, without requiring the use of the intervening Form 8–S. To accomplish this, the Form 8–R was revised to incorporate the information and the certifications in the Form 8–S.[10]

As a result of the revisions to the Form 8–R, there are currently two filing procedures available to persons registering under the Commission s special registration procedures. NFA has determined that its processing of registration applications under the special registration provisions could be simplified if the Form 8–R were the only form used to obtain special registration.

[9] Assuming that both procedures were applicable, the registrant could select which procedure to follow

[10] 50 FR 28907, 28908 (July 17, 1985).

NFA believes that since the Form 8–R has been revised, its proper completion by the sponsor and applicant will not result in significant delays in obtaining special registration. Therefore, paragraph (b) of NFA's proposed Registration Rule 206 ("Registration of Associated Persons of Futures Commission Merchants, Introducing Brokers, Commodity Pool Operators and Commodity Trading Advisors"), which sets forth NFA's special registration procedures, eliminates the Form 8–S filing.

Accordingly, the Commission proposes to state in the final rule release that Form 8–S is withdrawn and no longer will be used to effect the special registration procedures of Commission rules 3.12(d) and 3.16(d).

6. Make the Special Registration Procedures Result in a Temporary License for APs Whose Registrations Have Terminated Within the Preceding 60 Days. Such Procedures Will Be Unavailable to Applicants Whose Form 8–R Contains a "Yes" Answer to a Disciplinary History Question if the Basis for the "Yes" Response Has Not Been Disclosed On a Previously Filed Application for Registration in any Capacity or on any Amendment to Such Application Filed More Than 30 Days Prior to the Date of the Current Registration Application—§§ 3.12(d), 3.16(d) and 3.18(d).

The special registration procedures provided for in Commission rule 3.12(d) permit an AP whose registration has terminated within the preceding 60 days to become registered without encountering delays attributable to the full fitness review. A person will not become registered under the special registration provisions unless the applicant personally can certify that: (1) The AP's registration is neither suspended nor revoked; (2) the AP qualifies for expedited registration by virtue of this registration having terminated not more than 60 days prior to the current application; and (3) the sponsor has been given a copy of any letter, notice or order issued in connection with any proceeding pending to suspend, revoke, or restrict the APs registration, or if within the preceding twelve months the Commission or NFA has permitted the withdrawal of the AP's application for registration.

The Commission notes that currently a person registered as an AP under the special registration procedures has not undergone a full fitness review prior to the granting of a new registration upon mailing of the Form 8–R. NFA does not have the fingerprints of the applicant at that time and is, therefore, unable to undertake such review. Such person is nevertheless registered with the Commission as an AP based principally on its previous registration and may, therefore, undertake commodity futures and options related dealings with the public. Additionally, because in such a case reregistration as an AP occurs upon the mailing of the Form 8–R, such person is not subject to summary denial proceedings under section 8a(2) of the Act if the later fitness review reveals information that may render him statutorily disqualified. Rather, when such information comes to the attention of NFA, suspension or revocation proceedings must be instituted against such person. Unless such information reveals that an applicant is subject to a disqualification under section 8a(2) of the Act, such person may continue to transact business with the public throughout the pendency of the suspension or revocation proceedings.[11]

NFA has stated, and the Commission concurs, that it does not believe that a person should be able to take advantage of the privilege of becoming registered upon mailing of the Form 8–R where such person discloses information on his registration application that may be the basis for a statutory disqualification under the Act, unless such information already has been disclosed in connection with a prior application for registration or an amendment to such application and has already been reviewed by NFA. Thus, the special registration provisions of NFA's proposed Registration Rule 206 place further limitations on the use of the special registration procedures. Specifically, NFA Rule 206 provides that in order for an applicant to be entitled to the use of such procedures, in addition to the certifications that must be provided pursuant to the Commission's special registration procedures, the applicant must certify that the Disciplinary History portion of such person's registration application contains no "yes" answers, or none except those arising from a matter which already has been disclosed in connection with a previous application for registration in any capacity if such registration was granted, or which was disclosed more than 30 days previously in an amendment to such application.

To help ensure that the special registration procedures are utilized by only those persons entitled to use them and to enable NFA to respond better to persons using the special registration procedures who are ineligible to do so, NFA's proposed Registration Rule 206(b) provides that persons who utilize such procedures will receive a temporary license rather than a registration. NFA may terminate the individual's temporary license and initiate proceedings to deny his registration if disqualifying information is revealed.

The Commission concurs in the proposed special registration procedures and, accordingly, proposes to amend § 3.12 (APs of FCMs and IBs), § 3.16 (APs of CPOs and CTAs) and § 3.18 (APs of LTMs) to permit NFA to implement the procedures of NFA Rule 206(b). Specifically, those sections are proposed to be amended by providing that an AP who associates with another registrant within 60 days after termination of the AP's registration will be granted a temporary license to act as an AP upon mailing of the required Form 8–R to NFA (or to the Commission in the case of APs of LTMs). *See* proposed §§ 3.12(d)(1), 3.16(d)(1) and 3.18(d)(1) ("registration terminated within the preceding sixty days"). Section 3.12(d) (APs of FCMs and IBs) and 3.18(d) (APs of LTMs) are proposed to be amended by providing that APs who currently are registered as APs in any capacity may become registered as APs of a new FCM, IB or LTM upon mailing a Form 8–R to NFA or to the Commission in case of LTMs.[12] *See* proposed §§ 3.12(d)(2) and 3.18(d)(3). Finally, sections 3.12, 3.16 and 3.18 are further proposed to be amended by conditioning the granting of a temporary license or new registration upon the proper filing of fingerprint cards and sponsor certificates and by providing that any temporary license will terminate if a statutory disqualification is applicable. *See* proposed §§ 3.12(d)(4) and (5), 3.16(d)(4) and (5) and 3.18(d)(4) and (5).

7. Require That a Firm Sponsoring the Registration of an Associated Person Verify the Educational and Employment History Supplied By the Applicant For the Preceding Three Years Rather Than the Preceding Five Years—§§ 3.12(c)(1)(ii), 3.16(c)(1)(ii), 3.18(c)(1)(ii) and 3.44(a)(4)(i).

In adopting its final rules governing the sponsorship of APs, the Commission stated that it believed that an applicant's most recent employment and educational history is of the greatest importance in "screening" an applicant's background and that the sponsor's verification should be limited to this

[11] *See* Section 4k(5) of the Act which permits an AP who is subject to a statutory disqualification under section 8(a) of the Act to remain an AP of a registrant as long as that registrant notified the Commission of such facts and the Commission determined that such person should be registered or temporarily licensed.

[12] Registered APs seeking to associate additionally with CPOs or CTAs will continue to follow the procedure of § 3.16(e)(2)(i).

indicative time period.[13] As a result, the Commission's final rules require that a sponsor verify only the preceding five years of employment and educational history. *See* §§ 3.12(c)(1)(ii), 3.16(c)(1)(ii), 3.18(c)(1)(ii) and 3.44(a)(4)(i).

NFA believes, and the Commission based upon its experience concurs, that information concerning a three-year period immediately preceding the date of the registration application is sufficient for screening an applicant's background.[14] NFA's proposed Registration Rule 206(a)(2)(B) would thus limit the sponsor's verification of employment and educational history to such three-year period.

Accordingly, the Commission proposes to amend Commission rules 3.12(c)(1)(ii), 3.16(c)(1)(ii), 3.18(c)(1)(ii) and 3.44(a)(4)(i) to require that an AP applicant's sponsor verify the applicant's employment and educational history for a three-year period preceding the application date.

8. Provide That an AP Applicant's Temporary License Will Be Terminated, and the Registration Application Deemed Withdrawn, Upon the Failure of the Applicant or Sponsoring Firm to Respond to NFA's Written Request for Clarification of Application Information or Resubmission of a Fingerprint Card—§§ 3.40(d), 3.42(a)(2) and (a)(3) and 3.44(c).

NFA has stated that it must have all information necessary to make the determination that an applicant is apparently qualified for registration before granting a temporary license. Furthermore, after a temporary license has been granted, NFA must have the ability to clarify fitness questions which arise in the course of processing the application.

NFA's experience in processing applications for the temporary licensing of APs has proven that, in some instances, the sponsors of applicants that have been granted temporary licenses have been less than diligent in providing NFA with additional clarification when potentially disqualifying information is exposed on an applicant through NFA's own fitness check or through an FBI or SEC check. Some temporarily licensed APs also have been reluctant to resubmit their fingerprints to NFA when the prints are later determined to be illegible. In these instances, NFA does not have the information necessary to make a fitness determination on the applicant. Nevertheless, under existing regulations, the applicant's temporary license remains in effect and will become a full registration in six months.

The Commission did not intend that a registration be granted when a temporary license remains in effect for six months solely because of a lack of cooperation on the part of the applicant or his sponsor. Rather, the Commission was seeking to allow automatic registration in those cases where the Commission, for convenience, chose not to act affirmatively to grant the registration.

Because it is necessary for NFA to have all information required to make a fitness determination before granting a registration, NFA's proposed registration Rules 301(b) and 302(b) provide that the failure of an applicant or, in the case of an applicant for registration as an associated person, the applicant's sponsor to respond to NFA's written request for either clarification of application information or resubmission of fingerprints as set forth within such request will be deemed to constitute a withdrawal of the registration application and shall result in the immediate termination of the applicant's temporary license. This provision (at least with respect to an applicant's failure to respond) currently is included in Commission rules 3.44(c) and 3.46(a)(3) governing the temporary licensing of applicants for guaranteed introducing broker registration but is not currently in Commission rule 3.40 which governs the temporary licensing of applicants for associated person registration.[15]

NFA intentionally has omitted reference in its rules to a prescribed number of days in which an applicant must respond to a request for clarification of information or resubmission of fingerprints. It did so because of the varied nature of such requests and the resulting inability to arrive at a number of days that would be appropriate to require applicants to respond to in all circumstances. For instance, it may be appropriate to grant an applicant two weeks in which to resubmit fingerprints while such a two-week period may not be enough time for an applicant to gather and submit to NFA supplemental documents relating to Disciplinary History questions. Alternatively, NFA's Registration Department should not be in a position of having to wait six weeks for the resubmission of information which may reasonably be produced in a shorter period of time. Thus, the language in proposed NFA Rules 301 and 302 which indicates that the applicant must respond "in accordance with the request" was intended to give NFA the flexibility to provide applicants with an appropriate amount of time to respond to NFA's request. NFA has assured the Commission that the response periods allowed for each type of information request will be applied consistently.

Accordingly, the Commission proposes to amend § 3.40 by adding a new paragraph (d), which will provide that the failure of an applicant or the applicant's sponsor to respond timely (*i.e.*, in accordance with such request) to a written request for clarification of application information or resubmission of fingerprints will be deemed to constitute a withdrawal of the application and result in the immediate termination of the applicant's temporary license.[16] The Commission proposes to amend 3.42(a) by adding a new paragraph (3), which will provide that a temporary license shall terminate upon the withdrawal of the registration application pursuant to § 3.40(d). The Commission proposes to amend §§ 3.44(c) and 3.46(a)(3) governing the temporary licensing of applicants for guaranteed introducing broker registration to make clear that such applicants must respond to a written request for further information in accordance with the request.[17]

9. Authorize NFA to Grant a Request For Withdrawal From Registration in Thirty Days or Less—§§ 3.33 and 3.2(a).

By letter dated July 14, 1987, NFA has requested that the Commission authorized NFA to process and grant requests for withdrawal from registration for those registrants for whom NFA has been authorized to

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[13] *See* 45 FR 80485, 80486 (December 5, 1980).

[14] The National Association of Securities Dealers ("NASD") requires a broker-dealer to contact all of an applicant's previous employers for the past three years. *See* NASD Form U-4, page 4, (application for securities industry registration or transfer.)

[15] In the event that an applicant's temporary license to act in the capacity of an AP terminates solely as a result of the failure of the applicant's sponsor to clarify application information, the Commission will not bring an action against the applicant solely because that applicant continues to work in the capacity of an AP under the temporary license as long as the applicant has no notice of the termination but will hold the applicant's sponsor responsible for any violations of the Act or rules thereunder.

[16] Because the failure of a sponsor to respond to NFA could result in the termination of an applicant's temporary license, the Commission believes that the applicant should be notified by NFA of any untimely response by a sponsor. Such procedure could allow an applicant to assist the sponsor in responding to a request. The Commission requests comment on whether such a procedure should be made part of a rule or incorporated as a "directive " to NFA within the final rule release.

[17] The Commission believes that requiring a response "in accordance with the request" represents a clarification of the existing requirement in Commission rules 3.44(c) and 3.46(a)(3) that a response be "timely."

perform registration functions.[18] In anticipation of this request, NFA's rule submission included a rule to implement such authority if granted by the Commission.

NFA's Registration Rule 601 generally parallels Commission rule 3.33, 17 CFR 3.33 (1987). Specifically, the Rule provides that a registrant may request that its registration in one or more capacities be withdrawn if the registrant has ceased, or has not commenced, engaging in activity requiring registration in such capacity or if the registrant is exempt from registration in such capacity. Withdrawal from registration under the Rule also parallels the Commission's regulation by remaining a self-executing procedure with withdrawals becoming effective on the thirtieth day after receipt of the withdrawal request unless certain specified conditions are present. (These conditions are enumerated in proposed NFA Rule 601(c)(1)–(5).) In order, however, to assure that the Commission receives actual notice of a proposed withdrawal, the Commission is proposing to require that not only the applicant but also NFA send the Commission a copy of any withdrawal request. *See* proposed § 3.33(e).

The NFA Rule differs from the Commission's rule by providing NFA the express authority to grant a withdrawal request in less than thirty days when all of the necessary checks have been performed. The Commission proposes to condition the issuance of such expedited withdrawal upon receipt by NFA of the written concurrence of the Commission. *See* proposed § 3.33(f).[19] The Rule also differs from the Commission's by requiring that a withdrawal request be made on an NFA-developed Form 7–W.[20] The Form 7–W is a standardized form which incorporates the filing requirements currently set out in the Commission's regulation. Thus, the new form will not impose any new requirements. NFA developed the Form 7–W based on its belief that a standardized form would benefit the processing body, either NFA or the Commission, by standardizing withdrawal requests for purposes of processing efficiency. The Commission's Division of Trading and Markets has assisted in the development of the Form 7–W and agrees that a standard form would improve the withdrawal process.

Accordingly, the Commission proposes to expressly authorize NFA to undertake withdrawal responsibilities for all registrants for whom NFA has been authorized to perform registration functions. (The Commission will continue to handle withdrawals by LTMs.) The Commission proposes to amend Commission rules 3.33 and 3.2(a) to reflect this assumption of withdrawal responsibility by NFA as described above. Finally, in order to reduce the risk of inadvertent withdrawal requests caused for example by lost mail, the Commission proposes to amend § 3.33(f) to make clear that any imputed withdrawal request (*i.e.*, a request due to the failure of a registrant to file the annual 7–R—*see, e.g.*, § 3.10(c)) will become effective only after a minimum of 30 days actual written notice to a registrant as set forth in rules 3.10(d), 3.13(c), 3.14(c), 3.15(c) and 3.17(c).

III. Other Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of these rules on small businesses. In this connection, the Commission previously has determined that FCMs and registered CPOs should not be considered small entities for purposes of the RFA.[21] With respect to CTAs, floor brokers, introducing brokers and leverage transaction merchants, the Commission has stated that it would evaluate within the context of a particular rule proposal whether all or some should be considered to be small entities, and if so, that it would analyze the economic impact on them of any rule.[22] Because the proposed rules would amend registration rules that currently are applicable to the above mentioned registrants, would not result in any additional burdens and would streamline and, in some instances, eliminate the need for filings, the Commission believes that the proposals, if adopted, would not have a significant economic impact on the above-noted entities. Therefore, pursuant to section 3(a) of the RFA, 5 U.S.C. 605(b), the Acting Chairman of the Commission certifies that the proposed rules will not have a significant economic impact on a substantial number of small entities. Nonetheless, the Commission specifically requests comments on the impact, if any, the proposed rules may have on small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 ("PRA") 44 U.S.C. 3501 *et seq.*, imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. In compliance with the PRA, the Commission has submitted this proposal and its associated information collection requirements to the Office of Management and Budget. Persons wishing to comment on the information which would be required by this proposal should contact Bob Neal, Office of Management and Budget, Room 3228, NEOB, Washington, DC 20503, (202) 395–7340. Copies of the information collection submission to OMB are available from Joseph G. Salazar, CFTC Clearance Officer, 2033 K Street NW., Washington, DC 20581, (202) 254–9735.

List of Subjects in 17 CFR Part 3

Associated person, Commodity pool operator, Commodity trading advisor, Futures commission merchant, Introducing broker, Leverage transaction merchant, National Futures Association, Registration requirements, Temporary licensing, Withdrawals from registration.

Accordingly, the Commission, pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 2(a)(1), 4, 4b, 4c, 4d, 4e, 4f, 4g, 4h, 4i, 4k, 4m, 4n, 4o, 4p, 6, 8, 8a, 14, 15, 17 and 19 thereof, (7 U.S.C.2 and 4, 6, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6n, 6o, 6p, 8, 9, 9a and 13b, 12, 12a, 18, 19, 21 and 23, hereby proposes to amend Subparts A and B of Part 3 of Chapter I of Title 17 of the Code of Federal Regulations as specified below.

PART 3—REGISTRATION

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

Authority: 7 U.S.C. 2, 4, 4a, 6c, 6d, 6e, 6f, 6k, 6m, 6n, 6p, 12a, 13c, 16a, unless otherwise noted.

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[18] The Commission Order authorizing NFA to deny, suspend, revoke, or otherwise condition registration did not authorize NFA to act upon requests for withdrawal from registration. 50 FR 34885, 34887 (August 28, 1985).

[19] NFA has assured the Commission that if it is authorized to grant requests for withdrawal from registration, it will work with Commission staff to develop procedures that are acceptable to both the Commission and NFA. The Commission anticipates that such procedures would include at a minimum a mechanism to notify the Commission before NFA grants a withdrawal. These procedures should not interfere with the efficient processing of withdrawals.

[20] A draft copy of Form 7–W was submitted by NFA to the Commission on August 5, 1987. This form has been included in the Paperwork Reduction Act compliance package submitted to the Office of Management and Budget as explained in more detail at the end of this release.

[21] 47 FR 18618–18620 (April 30, 1982).

[22] 47 FR 18618, 18620 (April 30, 1982) (CTAs and floor brokers); 48 FR 35248, 35276 (August 3, 1983) (introducing brokers). *See* 49 FR 5498, 5520 (February 13, 1984) (leverage transaction merchants).

Subpart A—Registration

2. Section 3.2 is proposed to be amended by removing paragraph (d) and redesignating paragraph (e) as paragraph (d) and by revising paragraphs (a) and (d), as redesignated, to read as follows:

§ 3.2 Registration processing by the National Futures Association; notification of registration.

(a) Except as otherwise provided in any rule, regulation or order of the Commission, the registration functions of the Commission set forth in Subpart A, Subpart B and Subpart C of this part shall be performed by the National Futures Association, in accordance with such rules, consistent with the provisions of the Act and this part, applicable to registrations granted under the Act that the National Futures Association may adopt and are approved by the Commission pursuant to section 17(j) of the Act.

* * * * *

(d) Any registration form, any schedule or supplement thereto, any fingerprint card or other document required by this part of any rule of the National Futures Association to be filed with the National Futures Association shall be deemed for all purposes to have been filed with, and to be the official record of, the Commission.

3. Section 3.10 is proposed to be amended by revising paragraph (b) and adding paragraph (d) to read as follows:

§ 3.10 Registration of futures commission merchants.

* * * * *

(b) *Duration of registration.* A person registered as a futures commission merchant in accordance with paragraph (a) of this section will continue to be so registered until such registration is suspended, revoked, terminated or withdrawn.

* * * * *

(d) *Annual filing.* Any person registered as a futures commission merchant in accordance with paragraph (a) of this section must file with the National Futures Association a Form 7–R, completed in accordance with the instructions thereto, annually on a date specified by the National Futures Association. The failure to file the Form 7–R within thirty days following such date shall be deemed to be a request for withdrawal from registration. On at least thirty days written notice, and following such action, if any, deemed to be necessary by the Commission or the National Futures Association, the National Futures Association may grant the request for withdrawal from registration.

4. Section 3.12 is proposed to be amended by revising paragraphs (c)(1)(ii), (d) heading, (d)(1) introductory text, (d)(1)(iii), (d)(2) and (d)(3) and by adding new paragraphs (d)(1)(vi), (d)(4) and (d)(5) to read as follows:

§ 3.12 Registration of associated persons of futures commission merchants and introducing brokers.

* * * * *

(c) * * *

(1) * * *

(ii) The sponsor has verified the information supplied by the applicant in response to the questions on Form 8–R which relate to the applicant's education and employment history during the preceding three years.

* * * * *

(d) *Special temporary licensing and registration procedures for certain persons*—(1) *Registration terminated within the proceding sixty days.* Except as otherwise provided in paragraphs (d)(4) and (f) of this section, any person whose registration as an associated person in any capacity has terminated within the preceding sixty days and who becomes associated with a new sponsor will be granted a temporary license to act in the capacity of an associated person of such sponsor upon the mailing by that sponsor to the National Futures Association of a Form 8–R, completed in accordance with the instructions thereto, which includes written certifications stating:

* * * * *

(iii) That such person is eligible to be registered or temporarily licensed in accordance with this paragraph (d);

* * * * *

(vi) That the Disciplinary History portion of such person's registration application contains no "yes" answers, or none except those arising from a matter which already has been disclosed in connection with a previous application for a registration in any capacity if such registration was granted, or which was disclosed more than thrity days previously in an amendment to such application.

(2) *Registration still in effect.* Except as provided for in paragraphs (d)(4) and (f) of this section, any person whose registration as as associated person in any capacity is still in effect and who becomes associated with a sponsoring futures commission merchant or introducing broker will be registered as an associated person of such sponsor upon mailing by that sponsor to the National Futures Association of a Form 8–R, completed in accordance with the instructions thereto, containing the written certifications required by paragraph (d)(1) of this section.

(3) The certifications permitted by paragraphs (d)(1)(i) and (d)(1)(v) of this section must be signed and dated by an officer, if the sponsor is a corporation, a general partner, if a partnership, or the sole proprietor, if a sole proprietorship. The certifications permitted by paragraphs (d)(1) (ii) through (iv) and (d)(1)(vi) of this section must be signed and dated by the applicant for registration as an associated person.

(4) An applicant will not be registered or granted a temporary license upon mailing of a properly completed Form 8–R pursuant to paragraph (d) of this section unless such Form is accompanied by the fingerprints of the applicant on a fingerprint card provided by the National Futures Association for that purpose, and Supplemental Sponsor Certification Statement signed by the new sponsor if the applicant's prior registration as an associated person was subject to conditions or restrictions.

(5) A temporary license received in accordance with paragraph (d)(1) of this section will terminate five days after service upon the applicant of a notice by the National Futures Association that such person may be found subject to a statutory disqualification from registration.

* * * * *

5. Section 3.13 is proposed to be amended by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 3.13 Registration of commodity trading advisors.

* * * * *

(b) *Duration of registration.* A person registered as a commodity trading advisor will continue to registered as such until such registration is suspended, revoked, terminated or withdrawn.

(c) *Annual Filing.* Any person registered as a commodity trading advisor in accordance with paragraph (a) of this section must file with the National Futures Association a Form 7–R, completed in accordance with the instructions thereto, annually on a date specified by the National Futures Association. The failure to file the Form 7–R within thirty days following such date shall be deemed to be a request for withdrawal from registration. On at least thirty days written notice, and following such action, if any, deemed to be necessary by the Commission or the National Futures Association, the National Futures Association may grant the request for withdrawal from registration.

6. Section 3.14 is proposed to be amended by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 3.14 Registration of commodity pool operators.

* * * * *

(b) *Duration of registration.* A person registered as a commodity pool operator will continue to be registered as such until such registration is suspended, revoked, terminated or withdrawn.

(c) *Annual filing.* Any person registered as a commodity pool operator in accordance with paragraph (a) of this section must file with the National Futures Association a Form 7–R, completed in accordance with the instructions thereto, annually on a date specified by the National Futures Association. The failure to file the Form 7-R within thirty days following such date shall be deemed to be a request for withdrawal from registration. On at least thirty days written notice, and following such action, if any, deemed to be necessary by the Commission or the National Futures Association to protect the commodity futures markets, members of the National Futures Association or the pubic, the National Futures Associaton may grant the request for withdrawal from registration.

7. Section 3.15 is proposed to be amended by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 3.15 Registration of introducing brokers.

* * * * *

(b) *Duration of registration.* A person registered as an introducing broker will continue to be registered as such until such registration is suspended, revoked, terminated or withdrawn.

(c) *Annual filing.* Any person registered as an introducing broker in accordance with paragaph (a) of this section must file with the National Futures Association a Form 7–R, completed in accordance with the instructions thereto, annually on a date specified by the National Futures Association. The failure to file Form 7–R within thirty days following such date shall be deemed to be a request for withdrawal from registration. On at least thirty days within notice, and following such action, if any, deemed to be necessary by the Commission or the National Futures Association, the National Futures Association may grant the request for withdrawal from registration.

8. Section 3.16 is proposed to be amended by revising paragraphs (c)(1)(ii), (d) heading, (d)(1) introductory text, (d)(1)(iii), (d)(2), (d)(3), and by adding new paragrahs (d)(1)(vi) and (d)(4) to read as follows:

§ 3.16 Registration of associated persons of commodity trading advisors and commodity pool operators.

* * * * *

(c) * * *

(1) * * *

(ii) The sponsor has verified the information supplied by the applicant in response to the questions on Form 8–R which relate to the applicant's education and employment history during the preceding three years.

* * * * *

(d) *Special temporary licensing procedure for certain persons*—(1)—*Registration terminated within the preceding sixty days.* Except as otherwise provided in paragraphs (d)(3) and (e) of this section, any person whose registration as an associated person in any capacity has terminated within the preceding sixty days and who becomes associated with a new sponsor will be granted a temporary license to act in the capacity of an associated person of such sponsor upon the mailing by that sponsor to the national Futures Association of a Form 8–R, completed in accordance with the instructions thereto, which includes written certifications stating:

* * * * *

(iii) That such person is eligible to be registered or temporarily licensed in accordance with this paragraph (d);

* * * * *

(vi) That the Disciplinary History portion of such person's registration application contains no "yes" answers, or none except those arising from a matter which already has been disclosed in connection with a previous application for a registration in any capacity if such registration was granted, or which was disclosed more than 30 days previously in an amendment to such application.

(2) The certifications permitted by paragraphs (d)(1)(i) and (2)(1)(v) of this section must be signed and dated by an officer, if the sponsor is a corporation, a general partner, if a partnership, or the sole proprietor, if a sole proprietorship. The certification permitted by paragraphs (d)(1) (ii) through (iv) and (d)(1)(vi) of this section must be signed and dated by the applicant for registration as an associated person.

(3) An applicant will not be granted a temporary license upon mailing of a properly completed Form 8–R pursuant to paragraph (d) of this section unless such form is accompanied by the fingerprints of the applicant on a fingerprint card provided by the National Futures Association for that purpose, and a Supplemental Sponsor Certification Statement signed by the new sponsor if the applicant's prior registration as an associated person was subject to conditions or restrictions.

(4) A temporary license received in accordance with paragraph (d) of this section will terminate five days after service upon the applicant of a notice by the National Futures Association that such person may be found subject to a statutory disqualification from registration.

* * * * *

9. Section 3.17 is proposed to be amended by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 3.17 Registration of leverage transaction merchants.

* * * * *

(b) *Duration of registration.* A person registered as a leverage transaction merchant will continue to be registered as such until such registration is suspended, revoked, terminated or withdrawn.

(c) *Annual filing.* Any person registered as a leverage transaction merchant in accordance with paragraph (a) of this section must file with the Commission a Form 7–R, completed in accordance with the instructions thereto, annually on a date specified by the Commission. The failure to file the Form 7–R within thirty days following such date shall be deemed to be a request for withdrawal from registration. On at least thirty days written notice, and following such action, if any, deemed to be necessary by the Commission, the Commission may grant the request for withdrawal from registration.

10. Section 3.18 is proposed to be amended by revising paragraphs (c)(1)(ii), (d) heading, (d)(1) introductory text, (d)(1)(iii) and (d)(2) and (d)(3), and by adding new paragraphs (d)(1)(vi), (d)(4) and (d)(5) to read as follows:

§ 3.18 Registration of associated persons of leverage transaction merchants.

* * * * *

(c) * * *

(1) * * *

(ii) The sponsor has verified the information supplied by the applicant in response to the questions on form 8–R which relate to the applicant's education and employment history during the preceding three years.

* * * * *

(d) *Special temporary licensing and registration procedures for certain persons*—(1) *Registration terminated within the preceding sixty days.* Except

as otherwise provided in paragraphs (d)(4) and (e) of this section, any person whose registration as an associated person in any capacity has terminated within the preceding sixty days and who becomes associated with a new sponsor will be granted a temporary license to act in the capacity of an associated person of such sponsor upon the mailing by that sponsor to the Commission of a Form 8–R, completed in accordance with the instructions thereto, which includes written certifications stating:

* * * * *

(iii) That such person is eligible to be registered or temporarily licensed in accordance with this paragraph (d);

* * * * *

(vi) That the Disciplinary History portion of such person's registration application contains no "yes" answers, or none except those arising from a matter which already has been disclosed in connection with a previous application for a registration in any capacity if such registration was granted, or which was disclosed more than thirty days previously in an amendment to such application.

(2) The certification permitted by paragraphs (d)(1)(i) and (d)(1)(v) of this section must be signed and dated by an officer, if the sponsor is a corporation, a general partner, if a partnership, or the sole proprietor, if a sole proprietorship. The certification permitted by paragraphs (d)(1) (ii) through (iv) of this section must be signed and dated by the applicant for registration as an associated person.

(3) *Registration still in effect.* Except as provided for in paragraphs (d)(4) and (f) of this section, any person whose registration as an associated person in any capacity is still in effect and becomes associated with a sponsoring leverage transaction merchant will be registered as an associated person of such sponsor upon mailing by that sponsor to the Commission of a Form 8–R, completed in accordance with the instruction thereto, containing the written certification required by paragraph (d)(1) of this section.

(4) An applicant will not be registered or granted a temporary license upon mailing or a properly completed Form 8–R pursuant to paragraph (d) of this section unless such form is accompanied by the fingerprints of the applicant on a fingerprint card provided by the Commission for that purpose, and a Supplemental Sponsor Certification Statement signed by the new sponsor if the applicant's prior registration as an associated person was subject to conditions or restrictions.

(5) A temporary license granted in accordance with paragraph (d) of this section will terminate five days after service upon the applicant of a notice by the Commission that such persons may be found subject to a statutory disqualification from registration.

* * * * *

11. Section 3.22 is proposed to be amended by revising paragraphs (a) and (b) to read as follows:

§ 3.22 Supplemental filings.

* * * * *

(a) That information has come to the attention of the staff of the Commission or of the National Futures Association, if true, could constitute grounds upon which to base a determination that the person is unfit to become, or to remain, registered or temporarily licensed in accordance with the Act or the regulations thereunder and setting forth such information in the notice, or that the Commission or the National Futures Association has undertaken a routine or periodic review of the registrant's fitness to remain registered or temporarily licensed; and

(b) That the person, or any individual who, based upon his or her relationship with that person is required to file a Form 8–R in accordance with the requirements of this Part, as applicable, must, within such period of time as the Commission or the National Futures Association may specify, complete and file with the Commission or the National Futures Association a current Form 7–R, or if appropriate, a Form 8–R, in accordance with the instruction thereto. A Form 8–R must be accompanied by that individual's fingerprints on a fingerprint card provided by the Commission or the National Futures Association for that purpose.

* * * * *

12. Section 3.31 is proposed to be amended by revising paragraphs (a) and (c)(1) introductory text to read as follows:

§ 3.31 Deficiencies, inaccuracies, and changes, to be reported.

(a) Each applicant or registrant as a futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant must, in accordance with the instructions thereto, promptly correct any deficiency or inaccuracy in Form 7–R or Schedules A, B or C of Form 7–R which no longer renders accurate and current the information contained therein. Each such correction must be made on Form 3–R and must be prepared and filed in accordance with the instructions thereto: *Provided,* if a registrant files a Form 3–R to report a change in the form of the organization of the registrant, such Form must be accompanied by a document signed in a manner sufficient to be binding under local law by a person authorized to act on behalf of the registrant, in which the registrant certifies that it will be liable for all obligations of the pre-existing organization under the Act, as it may be amended from time to time, and the rules, regulations or orders which have been or may be promulgated thereunder.

* * * * *

(c)(1) After the filing of a Form 8–R or a Form 3–R by or on behalf of any person for the purpose of permitting that person to be an associated person of a futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant, that futures commission merchant, commodity trading advisor, commodity pool operator, or introducing broker must, within twenty days after the occurrence of either of the following, file a notice thereof with the National Futures Association or, in the case of a leverage transaction merchant, with the Commission, indicating:

* * * * *

13. Section 3.32 is proposed to be amended by revising paragraphs (a), (d), (e)(1), (g) and (h) to read as follows:

§ 3.32 Changes requiring new registration; addition of principals.

(a) Except as otherwise provided in this section, if the registrant is a futures commission merchant, introducing broker, commodity pool operator, commodity trading advisor or leverage transaction merchant, registration is deemed to terminate and a new registration is required whenever a person not listed on the registrant's initial registration application (or amendment of such application prior to the granting of registration):

(1) Acquires the right to vote or becomes the beneficial owner of 10 percent or more of the registrant's voting securities;

(2) Becomes entitled to receive ten percent or more of the registrant's net profits;

(3) Contributes 10 percent or more of the registrant's capital;

(4) Becomes a director of the registrant;

(5) Becomes the chief executive officer of the registrant or occupies a position of similar status or performs a similar function;

(6) Acquires ownership of the registrant's business in the case of a sole proprietorship; or

(7) Becomes a general partner of the registrant in the case of a partnership.

* * * * *

(d) In the event of a change requiring the filing of an application for registration pursuant to paragraph (a) of this section, if each person not listed as a principal on the registrant's initial application or any amendment thereto currently is registered in any capacity or is a principal of a current Commission registrant with respect to whom the registrant has made all necessary filings under this part, such registration shall not terminate until the earliest of:

(1) 90 days from the date such change occurred; or

(2) Notification by the National Futures Association or the Commission of the granting of the new registration; or

(3) Five days after service upon the registrant of a notice by the National Futures Association or the Commission that the registrant may be found subject to a statutory disqualification from registration.

(e)(1) Except where a registrant chooses to file an applicant pursuant to paragraph (d) of this section, if applicable, in the event of a change as described in paragraph (a)(4) or (a)(5) of this section, a new registration will not be required if the registrant submits a written notice on Form 3–R to the National Futures Association or, in the case of a leverage transaction merchant, to the Commission, prior to the date of such change in control (and such charge does not occur until the registrant receives written approval from the National Futures Association or, in the case of a leverage transaction merchant, from the Commission), and includes with such notice a Form 8–R, completed in accordance with the instructions thereto and executed by each natural person who will become a principal of the registrant. The Form 8–R for each such individual must be accompanied by the fingerprints of that individual on a fingerprint card provided for that purpose by the National Futures Association, or by the Commission if the registrant is a leverage transaction merchant: *Provided however,* That a fingerprint card need not be provided under this paragraph for any individual who currently is registered with the Commission as an associated person or floor broker, or is a principal of a Commission registrant for whom the filings required by this part have been made.

* * * * *

(g) Notwithstanding the provisions of §§ 3.12(a), 3.16(a) and 3.18(a), if a new registration is granted under this section, any person who is registered, or who has submitted an application for registration, as an associated person of the registrant on or price to the date of any event described in paragraph (a) of this section, shall be deemed to be registered, or to have submitted an application for registration, as an associated person of such new registrant.

(h) Except as otherwise provided in this section, within twenty days after any natural person becomes a principal of an applicant or registrant subsequent to the filing of a Form 7–R in accordance with the requirements set forth in §§ 3.10(a), 3.13(a), 3.14(a), 3.15(a), or 3.17(a) of this part, the applicant or registrant must file a Form 8–R with the National Futures Association, or the Commission if the applicant or registrant is a leverage transaction merchant. The Form 8–R must be completed by such principal in accordance with the instructions thereto and must be accompanied by the fingerprints of that principal on a fingerprint card provided for that purpose by the National Futures Association, or by the Commission if the applicant or registrant is a leverage transaction merchant. This filing need not be made for any principal who has a current Form 8–R or Form 94 on file with the Commission or the National Futures Association: *Provided,* That within twenty days the applicant or registrant must notify the National Futures Association, or the Commission if the applicant or registrant is a leverage transaction merchant, of the name of such added principal on Form 3–R.

* * * * *

14. Section 3.33 is proposed to be amended by revising paragraphs (a)(3), (b) introductory text, (e), and (f) to read as follows:

§ 3.33 Withdrawal from registration.

(a) * * *

(3) The registrant is excluded from the persons or any class of persons required to be registered in such capacity: *Provided,* That the National Futures Association or the Commission, as appropriate, any consider separately each capacity for which withdrawal is requested in acting upon such a request.

(b) A request for withdrawal from registration under this section must be made on a Form 7–W completed and filed with the National Futures Association or with the Commission in the case of a leverage transaction merchant, in accordance with the instructions thereto. The request for withdrawal must be made by the sole proprietor if the registrant is a sole proprietorship, by a general partner if a partnership, or by the president or chief executive officer if a corporation, and must specify:

* * * * *

(e) A request for withdrawal from registration as a futures commission merchant, introducing broker, commodity trading advisor or commodity pool operator must be sent to the National Futures Association, Registration Office, 200 West Madison Street, Chicago, Illinois 60606 and a copy of such request must be sent by the registrant, and by the National Futures Association within three business days of the receipt of such withdrawal request, to the Commodity Futures Trading Commission, Division of Trading and Markets, Registration Unit, 2033 K Street NW., Washington, DC 20581. Within three business days of any determination by the National Futures Association under §§ 3.10(d), 3.13(c), 3.14(c) or 3.15(c) of this part to treat the failure by a registrant to file an annual Form 7–R as a request for withdrawal, the National Futures Association shall send the Commission notice of that determination. A request for withdrawal from registration as a leverage transaction merchant must be sent only to the Commission at the above address.

(f) Except as otherwise provided in §§ 3.10(d), 3.13(c), 3.14(c), 3.15(c) and 3.17(c) of this chapter, a request for withdrawal from registration will become effective on the thirtieth day after receipt of such request by the National Futures Association (or, in the case of a leverage transaction merchant, by the Commission), or earlier upon written notice from the National Futures Association (with the written concurrence of the Commission) or the Commission of the granting of such request, unless prior to the effective date:

(1) The Commission or the National Futures Association has instituted a proceeding to suspend or revoke such registration;

(2) The Commission or the National Futures Association imposes, or gives notice by mail which notice shall be complete upon mailing, that it intends to impose terms or conditions upon such withdrawal from registration;

(3) The Commission or the National Futures Association notifies the registrant by mail, which notice shall be complete upon mailing, or the registrant otherwise is notified that it is the subject of an investigation to determine, among other things, whether such registrant has violated, is violating, or is about to violate the Act, rules, regulations or orders adopted thereunder;

(4) The Commission or the National Futures Association requests from the registrant futher information pertaining to its request for withdrawal from registration; or

(5) The Commission or National Futures Association determines that it would be contrary to the requirements of the Act, or of any rule, regulation or order thereunder, or to the public interest to permit such withdrawal from registration.

* * * * *

Subpart B—Temporary Licenses

15. The authority citation for Subpart B continues to read as follows:

Authority: Secs. 2(a)(1), 4, 4b, 4c, 4d, 4e, 4f, 4g, 4h, 4i, 4k, 4m, 4n 4o, 4p, 6, 8, 8a, 14, 15, 17 and 19 of the Commodity Exchange Act (7 U.S.C. 2 and 4, 6, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6n, 6o, 6p, 8, 9, 9a and 13b, 12, 12a, 18, 19, 21 and 23); 5 U.S.C. 552 and 552b.

16. Section 3.40 is proposed to be amended by adding paragraph (d) to read as follows:

§ 3.40 Temporary licensing of applicants for associated person registration.

* * * * *

(d) The failure of an applicant or the applicant's sponsor to respond to a written request by the Commission or the National Futures Association for clarification of any information set forth in the application of the applicant or for the resubmission of fingerprints in accordance with such request will be deemed to constitute a withdrawal of the applicant's registration application and shall result in the immediate termination of the applicant's temporary license.

17. Section 3.42 is proposed to be amended by revising paragraph (a)(2) and by adding paragraph (a)(3) to read as follows:

§ 3.42 Termination of temporary licenses of applicants for associated person registration.

(a) * * *

(2) Immediately upon termination of the association of the applicant with the registrant which filed the sponsorship certification described in § 3.40(c); or

(3) Immediately upon the withdrawal of the registration application pursuant to § 3.40(d).

* * * * *

18. Section 3.44 is proposed to be amended by revising paragraphs (a)(4)(i) and (c) to read as follows:

§ 3.44 Temporary licensing of applicants for guaranteed introducing broker registration.

(a) * * *

(4) * * *

(i) The futures commission merchant has verified the information on the Forms 8–R filed pursuant to paragraph (a)(3) of this section which relate to education and employment history of the applicant's principals (including each branch office manager) thereof during the preceding three years; and

* * * * *

(c) An applicant that fails to respond in accordance with a written request by the Commission or the National Futures Association for clarification of any information set forth in the application of the applicant or any principal (including any branch office manager) thereof or for the resubmission of a fingerprint card will be deemed to have withdrawn its registration application and the temporary license issued to such applicant and any associated person thereof shall terminate immediately.

19. Section 3.46 is proposed to be amended by revising paragraph (a)(3) to read as follows:

§ 3.46 Termination of temporary licenses of applicants for guaranteed introducing broker registration.

(a) * * *

(3) Upon the failure of an applicant to respond to a written request by the Commission or the National Futures Association for clarification of information set forth in the application of the applicant or any principal (including any branch office manager) thereof or for the resubmission of a fingerprint card pursuant to § 3.44(c) of this subpart in accordance with such request.

* * * * *

Issued in Washington, DC on November 23, 1987 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87–27322 Filed 11–25–87; 8:45 am]

BILLING CODE 6351–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1625

Employee Pension Benefit Plans

AGENCY: Equal Employment Opportunity Commission (EEOC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission hereby provides notice of its proposed legislative regulation under section 9 of the Age Discrimination in Employment Act of 1967 (ADEA), 29 U.S.C. 621 *et seq.*, relating to the prohibition against discrimination on the basis of age in employee pension benefit plans (hereafter, "pension plans") in section 4(i) of the ADEA, 29 U.S.C. 623(i). This rulemaking is undertaken as a result of the 1986 amendments to the ADEA.

DATES: Written comments must be received by December 28, 1987 and must be submitted in quadruplicate. It is anticipated that final rules will be effective thirty days after publication.

ADDRESS: Comments may be mailed to: Executive Secretariat, Equal Employment Opportunity Commission, Room 507, 2401 E Street NW., Washington, DC 20507.

FOR FURTHER INFORMATION CONTACT: Paul E. Boymel, Office of Legal Counsel, Room 214, EEOC, 2401 E Street NW., Washington, DC 20507, (202) 634–6423.

SUPPLEMENTARY INFORMATION: The Commission has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis is not required. The rule has been coordinated with the Office of Management and Budget pursuant to Executive Order 12291.

Pursuant to 5 U.S.C. 605(b), the Chairman, EEOC, certifies that the rule will not have a significant economic impact on a substantial number of small entities. Accordingly, the Commission is not required to prepare an initial or a final regulatory flexibility analysis of the proposed rule.

Background

Congress, in section 4(a)(1) of the ADEA, described the employer conduct that is prohibited (unlawful discrimination by employment agencies and labor organizations is described in section 4(b) and 4(c) of the ADEA, respectively):

(a) It shall be unlawful for an employer—

(1) to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age;

However, Congress fashioned an exception to the general prohibitions in section 4(a) of the ADEA. That exception in section 4(f)(2) of the ADEA provides:

It shall not be unlawful for an employer, employment agency, or labor organization—

(2) to observe the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this Act, except that no such employee benefit plan shall excuse the failure to hire any individual, and no such seniority system or employee benefit plan shall require or permit the involuntary retirement of any individual specified by

section 12(a) of this Act because of the age of such individual.

The ADEA was amended in 1978 to preclude mandatory retirement of covered employees and to raise the upper age limit for coverage under the ADEA from 65 to 70. Because these amendments potentially affected pension plans, in 1979 the Department of Labor (DOL), at the urging of Congress, published the "Employee Benefit Plans: Amendment to Interpretative Bulletin," 29 CFR 860.120, 44 FR 30648 (May 25, 1979), which provided guidance on employee benefit plans covered under the ADEA. The Interpretative Bulletin contained special rules that allowed employers to cease contributions and accruals to pension plans for employees who continued to work beyond normal retirement age, whether or not the employers could make a cost justification for such cessation.

On October 17, 1986, Congress passed the Omnibus Budget Reconciliation Act of 1986 (OBRA), Pub. L. 99-509. In sections 9201-9204 of OBRA, Congress added section 4(i) to the ADEA and added essentially identical provisions to ERISA and the Internal Revenue Code (IRC) to require continuing contributions, allocations, and accruals in a pension plan regardless of an employee's age. The amendments require such contributions, allocations, and accruals without regard to the cost of such benefits. These proposed regulations are promulgated as the result of the passage of sections 9201-9204 of OBRA.

Interagency Coordination Process

Since sections 9201-9202 of OBRA amended the ADEA, ERISA, and the IRC almost identically, section 9204(d) of OBRA provides that the regulations and rulings of the Commission, the Internal Revenue Service (IRS) and DOL, the three agencies with jurisdiction over the three statutes, "small each be consistent with the others." Since IRS was given lead regulatory authority on a major portion of the OBRA regulations, the three agencies decided initially that IRS would prepare the regulations and that EEOC and DOL would, to the extent necessary, adapt and incorporate such regulations. Accordingly, the proposed regulations published herein by the Commission have been coordinated with IRS and DOL extensively. However, since IRS is not yet ready to publish proposed or final rules, EEOC's rules to not address in detail such issues as actuarial equivalency (ADEA section 4(i)(3)), highly compensated employees (ADEA section 4(i)(5)), and IRC limits on contributions, benefits, or deductions (ADEA section 4(i)(7)). Under OBRA, IRS was given the exclusive regulatory authority for such issues. As soon as final IRS regulations are promulgated, the regulations herein can be amended appropriately. While IRS regulations will relate to the IRC and ERISA provisions of OBRA and the Commission's proposed regulations relate to the ADEA, it is the clear intent of Congress, and therefore of the Commission, that the regulatory provisions be construed as identical wherever possible.

Discussion and Comparison of EEOC and IRS Rules

(a) *Remedies*—IRS rules will relate to the determination of whether a pension plan qualifies for favorable tax treatment under the IRC. The Commission rules relates to the determination of whether a pension plan's sponsor (whether an employer, an employment agency, a labor organization, or any combination thereof) is in violation of the ADEA and subject to the sanctions set forth therein. (See section 7 of the ADEA).

(b) *Statutory Scope*—The OBRA provisions apply to "employee pension benefit plans," as defined by section 3(2) of ERISA:

> * * * the terms "employee pension benefit plan" and "pension plan" mean any plan, fund, or program which was heretofore or is hereafter established or maintained by an employer or by an employee organization, or by both, to the extent that by its express terms or as a result of surrounding circumstances such plan, fund, or program—
>
> (i) provides retirement income to employees, or
>
> (ii) results in a deferral of income by employees for periods extending to the termination of covered employment or beyond,
>
> regardless of the method of calculating the contributions made to the plan, the method of calculating the benefits under the plan or the method of distributing benefits from the plan * * *

The ADEA, ERISA, and the IRC contain provisions limiting the jurisdiction of each statute. Pursuant to section 4(b) of ERISA and IRC section 411(e), any IRS regulations would not apply to most state and local governmental plans, church plans, or excess benefit plans, as defined in section 3(32), 3(33) and 3(36) of ERISA, respectively. However, to the extent that such plans' sponsors are not exempt from coverage under the ADEA, the same rules applicable under the ADEA to plans other than such plans are also applicable to governmental plans, church plans and excess benefit plans. (Participation rules for such plans are discussed in section (c), below).

Secondly, sections 11 and 12 of the ADEA set forth the jurisdictional limits on ADEA coverage. Section 11(b), for example, provides in effect that employers with fewer than twenty employees would not be covered by the ADEA. ERISA and the IRC have no such jurisdictional limits.

(c) *Participation Rules*—Section 9203 of OBRA sets forth rules relating to maximum age conditions for participation in pension plans (age-related exclusion from participation is no longer permitted). Although that section amended ERISA and the IRC, but not the ADEA, the Commission believes such participation rules have equal validity with regard to the ADEA. See the 1979 Interpretative Bulletin, 29 CFR 860.120(f)(1)(iv)(A), implementing a consistent approach regarding ERISA participation rules and ADEA enforcement. Accordingly, a violation of the section 9203 participation rules would be considered a violation of section 4(a)(1) of the ADEA, whether or not the pension plan is excluded from IRC coverage by IRC section 411(e). These rules do not address the validity of vesting requirements in ERISA section 4(b) plans which do not comply with the standards set in IRC section 411(a).

(d) *Scope of Section 4(i)*—Section 4(i)(4) of the ADEA provides that compliance with the requirements of section 4(i) with regard to benefit accruals under a pension plan satisfies all pension benefit accrual requirements in section 4 of the ADEA. Accordingly, after the effective date of section 4(i), sections 4(a)(1) and 4(f)(2) will no longer apply to such benefit accrual issues.

Explanation of Provisions

Section 9201 of OBRA added section 4(i)(1)(A) to the ADEA to provide rules for continued accruals under defined benefit plans beyond normal retirement age and added section 4(i)(1)(B) to provide rules for allocations to the accounts of participants in defined contribution plans without regard to age.

Effective for plan years beginning after December 31, 1987, section 4(i)(1)(A) provides the general rule that it shall be unlawful for an employer, an employment agency, or a labor organization, or any combination thereof, to establish or maintain a defined benefit plan under which an employee's benefit accrual is ceased, or the rate of an employee's benefit accrual is reduced, because of the employee's age. Similarly, effective for plan years beginning after December 31, 1987, section 4(i)(1)(B) provides that a defined contribution plan will not be in

compliance with the ADEA if allocations to an employee's account are ceased, or the rate at which allocations to an employee's account is reduced, because of the attainment of any age.

Section 4(i)(2) provides that a pension plan will not be treated as failing to satisfy the general rule in section 4(i)(1) merely because the plan contains a limitation on the maximum numbers of years of service or participation that are taken into account in determining benefits under the plan or merely because the plan contains a limitation on the amount of benefits a participant will receive under the plan, as long as such a limitation is not on account of age. The proposed regulations provide that these limitations apply to both defined benefit plans and defined contribution plans (including target benefit plans).

Section 4(i)(3) provides that, with respect to an employee who, as of the end of a plan year, has attained normal retirement age under a defined benefit plan, certain adjustments may be made to the benefit accrual for the plan year if the plan distributes benefits to the employee during the plan year or if the plan adjusts the amount of the benefits payable to take into account delayed payment.

Section 4(i)(4) provides that compliance with the requirements of section 4(i) with regard to a pension plan shall constitute compliance with the requirements of section 4 relating to pension benefit accruals under such plan. The provisions of sections 4(a)(1) and 4(f)(2) will no longer apply to such accruals.

Section 4(i)(5) provides that the Secretary of the Treasury shall prescribe regulations relating to the treatment of highly compensated employees.

Section 4(i)(6) provides that a pension plan will not be treated as failing to satisfy the general rule of section 4(i)(1) merely because the subsidized portion of an early retirement benefit is disregarded in determining benefit accruals under the plan.

Section 4(i)(7) provides that the Secretary of the Treasury shall prescribe regulations coordinating the requirements of section 4(i)(1) with the requirements of IRC sections 411(a), 404, 410, 415, and the antidiscrimination provisions of IRC subchapter D of Chapter 1 (IRC sections 401 through 425).

Section 4(i)(8) permits a pension plan to provide a "normal retirement age."

Section 4(i)(9) adopts the ERISA definitions of such terms as "employee pension benefit plan," "defined benefit plan," and "defined contribution plan." In addition, the term "target benefit plan" shall have the same meaning as provided in IRS regulations under IRC section 410.

List of Subjects in 29 CFR Part 1625

Advertising, Aged, Employee benefit plans, Equal employment opportunity, Retirement.

Substantive Rules

Therefore, it is proposed that 29 CFR Part 1625 is amended as follows:

PART 1625—[AMENDED]

1. The authority citation for Part 1625 continues to read as follows:

Authority: 81 Stat. 602; 29 U.S.C. 621; 5 U.S.C. 301; Secretary's Order No. 10–68; Secretary's Order No. 11–68; and Sec. 2, Reorg. Plan No. 1 of 1978, 43 FR 19807.

2. Section 1625.21 is added to Subpart B to read as follows:

§ 1625.21 Benefits under employee pension benefit plans—Application of section 4(i) of the ADEA.

(a) *In general.* Section 4(i)(1)(A) of the ADEA provides that a defined benefit plan does not satisfy the requirements of section 4(i) if, under the plan, benefit accruals on behalf of a participant are reduced or discontinued because of the participant's age. Section 4(i)(1)(B) provides that a defined contribution plan does not satisfy the requirements of section 4(i) if, under the plan, allocations to a participant's account are reduced or discontinued because of the participant's age.

(b) *Defined benefit plans*—(1) *In general.* Under section 4(i), except as provided in paragraph (b)(2) of this section, a defined benefit plan does not satisfy the requirements of section 4(i), if, because of a participant's age, a participant's accrual of benefits is discontinued, the rate of a participant's accrual of benefits is decreased, or a participant's compensation is not taken into account in determining the participant's accrual of benefits.

(2) *Certain limitations permitted.* A defined benefit plan does not fail to satisfy section 4(i) solely because under the plan a limitation is placed on the amount of benefits a participant may accrue or a limitation is placed on the number of years of service or participation taken into account for purposes of determining the accrual of benefits under the plan. For this purpose, a limitation expressed as a percentage of compensation (whether averaged over a participant's total years of credited service or over a shorter period) is treated as a permissible limitation on the amount of benefits a participant may accrue under the plan. However, any limitation on the amount of benefits a participant may accrue under the plan and any limitation on the number of years of credited service taken into account under the plan may not be based on the attainment of any age. A limitation that is determined by reference to age or that is not determinable except by reference to age is considered a limitation based on age. For example, a plan provision that, for purposes of benefit accrual, disregards years of credited service completed after a participant becomes eligible to receive Social Security benefits is considered a limitation based on age. Whether a limitation is based on age is determined with reference to all the facts and circumstances.

(c) *Rate of benefit accruals before normal retirement age.* [Reserved]

(d) *Certain adjustments for delayed retirement.* [Reserved]

(e) *Benefit subsidies disregarded.* A pension plan does not fail to satisfy section 4(i)(1) and paragraphs (b) and (f) of this section solely because the subsidized portion of any early retirement benefit provided under the plan is disregarded in determining the accrual of benefits or account allocations under the plan.

(f) *Defined contribution plans*—(1) *In general.* Under section 4(i)(1)(B), except as provided in paragraph (f)(2) of this section, a defined contribution plan will not satisfy the requirements of section 4(i) if, because of the participant's age—

(i) The allocation of employer contributions or forfeitures to the accounts of participants is discontinued,

(ii) The rate at which the allocation of employer contributions or forfeitures is made to the accounts of participants is decreased, or

(iii) The basis upon which gains, losses, or income of the trust is allocated to the accounts of participants is modified.

(2) *Certain limitations permitted.* (i) Notwithstanding paragraph (f)(1) of this section, a defined contribution plan (including a target benefit plan) does not fail to satisfy the requirements of section 4(i) solely because, for purposes of determining benefits under the plan, a limitation is placed on the total amount of employer contributions and forfeitures that may be allocated to a participant's account (for a particular plan year or for the participant's total years of credited service under the plan) or solely because a limitation is placed on the total number of years of credited service or participation for which a participant may receive allocations of employer contributions and forfeitures. However, the limitation described in the

preceding sentence may not be applied with respect to the allocation of gains, losses, or income of the trust to the account of a participant.

(ii) A defined contribution plan (including a target benefit plan) does not fail to satisfy section 4(i)(1)(B) solely because the plan limits the number of years of credited service which may be taken into account for purposes of determining the amount of, or the rate at which, employer contributions and forfeitures are allocated to a participant's account for a particular plan year.

(iii) Any limitation described in paragraph (f)(2) (i) and (ii) of this section must not be based on the attainment of any age. The provisions of paragraph (b)(2) of this section shall also apply for purposes of this paragraph (f).

(g) *Amendment reducing accruals.* Any amendment to a defined benefit plan or a defined contribution plan that reduces the rate of benefit accruals for a plan year may not vary the rate of such reduction based on the age of a participant.

(h) *Coordination with certain IRC provisions.* [Reserved]

(i) *Effective dates*—(1) *In general.* Except as otherwise provided in paragraph (i)(2) of this section, section 4(i) is effective for plan years beginning on or after January 1, 1988, and is applicable to an employee who is credited with at least one hour of service in a plan year to which section 4(i) applies. Accordingly, section 4(i) is not applicable to an employee who is not credited with at least one hour of service in a plan year beginning on or after January 1, 1988. Also, section 4(i) is not applicable to an employee for any plan year beginning before January 1, 1988, even if the employee is credited with at least one hour of service in a plan year begining on or after January 1, 1988.

(2) *Collectively bargained plans.* (i) In the case of a plan maintained pursuant to one or more collective bargaining agreements, between employee representatives and one or more employers, ratified before March 1, 1986, section 4(i) is applicable for plan years beginning on or after the later of—

(A) January 1, 1988, or

(B) The date on which the last of such collective bargaining agreements terminate (determined without regard to any extension of any such agreement occurring on or after March 1, 1986). However, notwithstanding the previous sentence, section 4(i) shall be applicable to plans described in this paragraph (i)(2)(i) no later than the first plan year beginning on or after January 1, 1990.

(ii) For purposes of paragraph (i)(2)(i) of this section, the service crediting rules of paragraph (i)(1) of this section shall apply to a plan described in paragraph (i)(2)(i) of this section, except that in applying such rules the effective date determined under paragraph (i)(2)(i) of this section shall be substituted for the effective date determined under paragraph (i)(1) of this section.

(3) *Amendments to plans.* Plan amendments required by section 4(i) shall not be required to be made before the first plan year beginning on or after January 1, 1989, if the following requirements are met—

(i) The plan is operated in accordance with the requirements of section 4(i) for all periods before the first plan year beginning on or after January 1, 1989, for which such section is effective with respect to the plan; and

(ii) Such plan amendments are adopted no later than the last day of the first plan year beginning on or after January 1, 1989, and are made effective retroactively for all periods for which section 4(i) is effective with respect to the plan.

Dated: November 20, 1987.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

[FR Doc. 87-27243 Filed 11-25-87; 8:45 am]

BILLING CODE 6570-06-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3295-9]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to approve a revision to the Ohio State Implementation Plans (SIP) for particulate matter (PM) and nitrogen oxides (NO_x) requiring continuous emission monitoring (CEM) and recording at all sources within specified source categories. (The CEM provisions for the Ohio sulfur dioxide SIP are discussed in a separate **Federal Register** action published at 51 FR 46693 on December 24, 1986.) This revision consists of CEM requirements necessary to meet the general guidelines established in section 110(a)(2)(F)(ii), (iii), and (iv) of the Clean Air Act and the specific provisions described in 40 CFR Part 51, Appendix P. For opacity under the PM SIP, 116 associated sources at 37 facilities in the State are affected by the CEM requirements. The CEM requirements for these sources are contained in permits to operate and Findings and Orders issued by the State of Ohio.

USEPA has determined that the CEM requirements for opacity contained in the permits and Findings and Orders for the sources meet USEPA's requirements and is proposing to approve them.

For nitrogen oxides there are no sources in the specified source categories. Therefore, USEPA is also proposing to approve Ohio's negative declaration for NO_x sources.

The purpose of this notice is to discuss USEPA's evaluation of the CEM requirements and to solicit public comments on this rulemaking action.

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

ADDRESSES: Copies of the SIP revision is available at the following addresses: (It is recommended that you telephone the contact person listed below before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604/

Ohio Environmental Protection Agency, Office of Air Pollution Control, 1800 WaterMark Drive, P.O. Box 1049, Columbus, Ohio 43266-0149.

Written comments should be sent to:

Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Delores Sieja, U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6038.

SUPPLEMENTARY INFORMATION:

Section 110 (a)(2)(F)(ii), (iii) and (iv) of the Clean Air Act establishes general guidelines which require each state to (1) install equipment to monitor emissions from stationary sources, (2) submit periodic reports on the nature and amounts of such emissions, and (3) correlate these reports with any emission limitations or standards established pursuant to the Clean Air Act. Pursuant to section 110 (a)(2)(F)(ii), (iii) and (iv), USEPA described at 40 CFR Part 51, Appendix P, specific minimum requirements for continuous emission monitoring (CEM) and recording that each SIP must include in

order to be approved under the provisions of 40 CFR 51.214. (This citation is codified in the 1987 edition of the Code of Federal Regulations. The cited provision was previously codified at 40 CFR 51.19(e).) 40 CFR 51.214 states that each plan shall, as a minimum, provide for a legally enforceable procedure to implement the CEM requirements. Thus, under Appendix P each State Plan shall contain minimum requirements that the owner or operator of an emission source in an applicable category described in Appendix P (see below) must:

(1) Install, calibrate, operate, and maintain all monitoring equipment necessary for continuously monitoring the pollutants specified in this appendix for the applicable source category, and

(2) Complete this installation and performance tests of such equipment and begin monitoring and recording within 18 months of plan approval and promulgation.

The source categories and the respective monitoring requirements are listed below:

- Fossil fuel-fired steam generators. This category shall be monitored for opacity, nitrogen oxides emissions, sulfur dioxide emissions, and oxygen or carbon dioxide.
- Fluid bed catalytic cracking unit catalyst regenerators. This category shall be monitored for opacity.
- Sulfuric acid plants. This category shall be monitored for sulfur dioxide emissions.
- Nitric acid plants. This category shall be monitored for nitrogen oxides emissions.

To meet the specific minimum monitoring requirements described in Appendix P of 40 CFR Part 51 and pursuant to the general guidelines established in section 110 (a)(2)(F)(ii), (iii) and (iv) of the Clean Air Act, the State of Ohio on January 5, 1987, submitted a revision to the Ohio SIP for particulate matter. The revision is in the form of operating permits and Findings and Orders for 116 associated sources at 37 facilities. (Findings and Orders were issued to four facilities by the Director of the Ohio EPA after he determined that it was necessary for applicable sources to comply with the CEM requirements. CEM requirements are contained in the Findings and Orders for sources located at these facilities and will be included in future permits to be issued for these sources.)

With respect to the four source categories described above, USEPA notes that this revision applies to the source categories of fossil fuel-fired steam generators (except for sulfur dioxide (SO_2) emissions), fluid bed catalytic cracking unit catalyst regenerators, and nitric acid plants. This revision does not apply to monitoring of SO_2 emissions at fossil fuel-fired steam generators and sulfuric acid plants because these two emission sources are covered in a separate **Federal Register** notice (USEPA's proposed action on these sources took place on December 24, 1986 (51 FR 46693)). The revision does not apply to nitric acid plants because there are no plants in the State with a production capacity greater than 300 tons/day nitric acid. With respect to the fossil fuel-fired steam generators category USEPA notes that Ohio has submitted monitoring requirements only for opacity. Ohio has not submitted fossil fuel-fired steam generator monitoring requirements for nitrogen oxides (NO_x) emissions, SO_2 emissions and oxygen or carbon dioxide for the following reasons.

- For NO_x emissions, none of the fossil fuel-fired steam generators with greater than 1,000 MMBtu/hr heat input were located in a NO_x nonattainment area.
- For SO_2 emissions, as stated above, the sources are covered in the above referenced December 24, 1986, **Federal Register** notice.
- For oxygen and carbon dioxide, obtaining this data is not necessary to today's proposed PM and NO_x SIP approvals requiring CEMs. This data is only needed during monitoring of NO_x and SO_2 emissions from fossil fuel-fired steam generators to convert NO_x and SO_2 CEM data to units of the emission standard. No affected NO_x sources exist in Ohio, and the SO_2 CEM requirements are not an issue in this notice.

Ohio has requested that USEPA rulemake (1) on the negative determination for NO_x sources and (2) on those portions of the permits and Findings and Orders pertaining only to the CEM and recording requirements of particulate emissions, and not for any other portion of the permits or Findings and Orders. Thus, USEPA will focus only on these requirements. This notice will be segmented into: (I) Listing of the Applicable Sources in Ohio That are Subject to the Opacity CEM Requirements, (II) Discussion of the CEM Requirements in the Permits and Findings and Orders, and (III) USEPA's Evalution.

I. Listing of the Applicable Sources in Ohio that are Subject to the Opacity CEM Requirements

A. Permits

Following are the 37 facilities in Ohio which have been issued permits and Findings and Orders subjecting them to the opacity CEM requirements:

Cincinnati Gas and Electric (CG&E) Company W.C. Beckjord Station
CG&E Miami Fort Station
Cleveland Electric Illuminating (CEI) Company (Centerior Energy) Ashtabula Plant "A"
CEI Ashtabula Plant "C"
CEI Avon Lake Plant
CEI Eastlake Plant
CEI Lakeshore Plant
Columbus and Southern Ohio Electric (C&SOE) Company Conesville Station
C&SOE Poston Station
C&SOE Pickaway Station*
Dayton Power and Light (DP&L) Company Longworth Station
DP&L J.M. Stuart Station
DP&L Hutchings Station
Mead Papers Chillicothe Facility
Ohio Edison (OE) Company Niles Station
OE R.E. Burger Station
OE Toronto Station
OE W.H. Sammis Station
OE Edgewater Station
OE Gorge Station
Ohio Power (OP) Company Gavin Plant
OP Cardinal Operating Company
OP Buckeye Power, Inc.
OP Muskingum River Plant*
Ohio Valley Electric (OVE) Company, Kyger Creek Station
OVE Orrville Municipal Power Plant
Toledo Edison (TE) Company (Centerior Energy), Acme Station
TE Bay Shore Station
Piqua Municipal Power Plant
Elkem Metals Company
Goodyear Tire and Rubber Company Akron Plant II
Procter and Gamble Company
The Standard Oil Company Lima Refinery
The Standard Oil Company Oregon Refinery
Sun Refining and Marketing Company Toledo Refinery
Champion International Hamilton-Mil Champion Papers*
Hamilton Municipal Electric Plant*

Each of the above facilities vary with respect to the number of "CEM sources" they contain. Of the total 116 associated sources at these 37 facilities affected by the opacity CEM requirements, 113 are fossil fuel-fired steam generators and 3 are petroleum refinery fluid bed catalytic cracking unit catalyst regenerators.

*These 4 facilities have been issued Findings and Orders.

II. Discussion of CEM Requirements in Permits and Findings and Orders

A. Permits

The CEM portions of the permits are all very similar. For the most part they consist of the following provisions:

(1) The facility shall operate and maintain existing equipment to continuously monitor and record the opacity of the particulate emissions. The monitors must meet specific minimum operating requirements specified in applicable portions of 40 CFR 60.13.

(ii) The facility shall submit reports on a quarterly basis to the Ohio EPA field office documenting all instances of opacity values in excess of specified limitations pursuant to applicable portions of 40 CFR Parts 60.7 amd 60.13.

B. Findings and Orders

The CEM portion of the Findings and Orders contain provisions that are similar to those in the permits, as discussed above.

III. USEPA'S Evaluation

USEPA has determined that the CEM provisions discussed under II. above meet the requirements of section 110(a)(2)(F)(ii)(iii) and (iv) of the Clean Air Act and 40 CFR Part 51, Appendix P. This incorporation of the CEM requirements in the permits and Findings and Orders satisfies 40 CFR 51.214 which requires a legally enforceable procedure to implement the CEM requirements.

USEPA would like to note the following regarding the CEM plan.

(1) The CEM portions of the permits and Findings and Orders, to which Ohio has expressly limited today's action, do not contain any expiration dates. It is USEPA's position that the CEM requirements will continue in effect until such time as USEPA takes final action to amend the provision.

(2) The CEM requirements that are contained in the Findings and Orders are essentially the same as those that will be found later in permits issued by the State. Before USEPA can take final action on the CEM plan, the State must submit CEM permit requirements for the four Findings and Orders sources that are basically identical to the CEM requirements found in the Findings and Orders that USEPA is taking action on today. USEPA's final rulemaking action will be on the CEM requirements found in the permits.

(3) Certain provisions found in the permits and Findings and Orders, and are discussed in general under II. above, reference specific portions of 40 CFR Part 60 as being requirements that the emission sources must comply with. 40 CFR Part 60 applies to Standards of Performance for New Stationary Sources. The specific portions of 40 CFR Part 60 that are referenced in Ohio's permits and Findings and Orders are § 60.7 which applies to notification and recordkeeping and § 60.13 which applies to monitoring requirements. Thus, this provision in Ohio's permits and Findings and Orders requires all existing and future applicable sources to comply with 40 CFR 60.7 and 40 CFR 60.13. The monitoring procedure specified in 40 CFR 60.7 and 40 CFR 6013 is consistent with the requirements of 40 CFR Part 51, Appendix P. However, their is one additional requirement under 40 CFR Part 51 Appendix P that is not contained in 40 CFR 60.7 and 60.13, but is contained in the permits and Findings and Orders. This requirement is that the emission source must complete the installation and performance tests of the CEM equipment and begin monitoring and recording within 18 months of plan approval or promulgation. USEPA believes the State permits and Findings and Orders comply with this requirement because the CEM requirement of the permits are effective immediately, and the Findings and Orders require the sources to meet the CEM requirement well within the 18 months requirement.

Proposed Action:

- Approval of the CEM opacity requirements in the permits, and new permits consistent with the Findings and Orders reviewed today.
- Approval of Ohio's negative determination for nitrogen oxides emissions sources at applicable nitric acid plants and fossil fuel-fired steam generators.

Interested parties are invited to submit comments on this proposed approval. USEPA will consider all comments submitted within 30 days of publication of this notice.

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

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that the attached rule will not have, if approved, a significant economic impact on a substantial number of small entities (See 46 FR 8709). No additional requirements will be imposed upon these sources, at that time, as a result of adding these requirements to the Federal SIP.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Particulate matter.

Authority: 42 U.S.C. 7401–7642.

Dated June 30, 1987.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 87–27302 Filed 11–25–87; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 205

[Docket No. 204JK]

Disaster Assistance; Subpart J (General Insurance Requirements); Subpart K (Flood Insurance Requirements)

AGENCY: Federal Emergency Management Agency.

ACTION: Advance notice of proposed rulemaking and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) is considering changing its criteria for general hazard insurance and flood insurance which are required as a condition for receiving Federal assistance under the Disaster Relief Act of 1974, Pub. L. 93–288 ("the Act"), for the repair or restoration of insurable structures which are owned by States, local governments or eligible private non-profit organizations and which are damaged or destroyed by a major disaster declared by the President pursuant to the Act. To assist FEMA in making this determination, the views and comments of States, local governments, and other eligible grantees, are solicited.

DATE: Comments Due date January 26, 1988.

ADDRESS: Send comments to Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, Room 835, 500 C Street, SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Alex Burns, Office of Disaster Assistance Programs, Federal Emergency Management Agency, Room 714, 500 C Street, SW., Washington, DC 20472, Telephone (202) 646–3670.

SUPPLEMENTARY INFORMATION: The Act authorizes FEMA to make grants to State and local governments and eligible private nonprofit medical, educational, custodial care, emergency, and utility organizations, for the repair or restoration of facilities which were damaged or destroyed by a major disaster declared by the President. Federal assistance is authorized for insurable structures, i.e., buildings and their contents, as well as for publicly

owned facilities such as streets, roads, bridges, utilities, dams, reservoirs, parks, etc., which normally are not insured. FEMA policies and procedures which implement the Disaster Relief Act are located at 44 CFR Part 205. 44 CFR Part 205 describes grant eligibility criteria and also establishes special conditions for grant recipients, including environmental assessments, hazard mitigation requirements, flood plain management requirements, coastal barriers act requirements, and general hazard insurance and flood insurance requirements.

Insurance to indemnify a Federally assisted project against subsequent disaster damage is required as a condition for a FEMA grant made under the Act for the repair or restoration of insurable structures. In such cases, either general hazard insurance is required under section 314 of the Act, 42 U.S.C. 5154, or flood insurance is required under the Floor Disaster Protection Act of 1973, Pub. L. 93–234. As an exception, prospective flood insurance coverage is not required for State-owned structures for those States (currently there are 12) which are approved by FEMA as self insurers under the National Flood Insurance Program (NFIP), which is established at 42 U.S.C. 4001 *et seq.* Similarly, propsective general hazard insurance coverage is not required for State-owned structures for States (currently, only Pennsylvania) which are approved by FEMA as self insurers under the Act.

Section 314 of the Act, 42 U.S.C. 5154, requires that State and local governments and other eligible grantees must obtain and maintain such insurance as is reasonably available, adequate and necessary to protect against future loss of such property as a condition for receiving disaster relief under the Act for restoring their insurable structures which were damaged or destroyed by a major disaster. FEMA interprets this provision of the law to require insurance which is available in the local market at a reasonable cost to the grantee. The current FEMA regulation implementing this legislation is located at 44 CFR Part 205, Subpart J (General Insurance Requirements).

Section 202 of the Flood Disaster Protection Act of 1974, Pub. L. 93–234, requires that State and local governments and other eligible grantees must obtain and maintain flood insurance as a condition for receiving Federal financial assistance for acquisition or construction purposes (which includes assistance under Pub. L. 93–288) for insurable structures located in identified flood hazard areas (areas susceptible to flooding) within a flood prone community. The current FEMA regulation implementing this legislation is located at 44 CFR Part 205, Subpart K (Flood Insurance Requirements).

Since fiscal year 1980, FEMA has approved 80,140 individual disaster repair and restoration projects at a cost of $1.1 billion. These individual projects were included in 6,950 grants to State and local governments and other eligible grantees approved by FEMA under the Act during this period. Of the 80,140 individual projects approved by FEMA, 5,180 projects totalling $64.8 million involved insurable structures for which the grantee was required to obtain and maintain appropriate insurance as a condition for receiving the disaster assistance grant.

As a result of FEMA's experience in administering the insurance program for disaster assistance grants to State and local governments and eligible private non-profit organizations, FEMA is considering 4 different amendments to 44 CFR Part 205. The 4 amendments which FEMA is considering are described below. In this regard, FEMA is requesting the views and comments of organizations eligible for Federal disaster assistance under the Act and of other interested parties. Eligible organizations include States, local governments and other public entities, and also includes eligible private non-profit organizations owning educational, utility, emergency, medical, and custodial care facilities. See section 402 of the Act, 42 U.S.C. 5172.

Insurance Program Changes Being Considered

(1) 44 CFR 205.205 and 205.253(a)(2)(i)(B) presently require that a disaster assistance grantee must obtain and maintain prospective insurance in amounts equal to the Federal disaster grant. FEMA is considering proposing amendments to these regulations to increase the amount of required general hazard insurance and flood insurance which an applicant must obtain and maintain up to the full insurable value of the Fedrally assisted structure, rather than limiting the required insurance to only the amount of the Federal disaster assistance grant.

When the initial implementing regulations were issued in 24 CFR Part 2205, Subparts E and F, in 1975 by the Federal Disaster Assistance Administration (FDAA), Department of Housing and Urban Development, one of FEMA's predecessor agencies, grantees were required to obtain and maintain insurance for the full insurable value of the Federally assisted property. In 1979 and 1980, FEMA issued proposed rules to revise these earlier insurance regulations. At that time a number of States commented that the then existing requirement to obtain and maintain insurance for the full value of the Federally assisted facility was counter-productive in that it discouraged effective flood plain management because communities often refused FEMA disaster grants when the long-term cost of the insurance commitment exceeded the anticipated benefits from the receipt of Federal disaster assistance. As a result of these comments, FEMA changed its earlier regulations to only require insurance up to the amount of the Federal disaster assistance which was actually provided.

However, FEMA's more recent experience in administering the current disaster insurance requirements indicates a need to re-evaluate this disaster insurance policy with a view toward placing increased emphasis on the use of insurance to offset the cost of Federal disaster assistance. Therefore, FEMA is considering amending 44 CFR 205.205 and 205.253(a)(2)(i)(B) to require that grantees obtain and maintain appropriate insurance of the full insurable value of the Federally assisted property.

(2) 44 CFR 205.203(f) currently requires that, in Presidentially declared major disasters which result in flooding damages, a grantee must obtain and maintain reasonably available, adequate and necessary flood insurance as a condition for receiving a Federal disaster grant for the repair or restoration of flood damaged structures, even if they are located outside of an identified flood hazard area (an area particularly susceptible to flooding). FEMA is now considering whether this policy of requiring flood insurance for Federally assisted structures which are outside of identified flood hazard areas should be continued or modified.

If a structure is located outside of a community's identified flood hazard area, flood insurance is not required under Section 202 of the Flood Disaster Protection Act 42 U.S.C. 4106, and its implementing regulation, 44 CFR 205.253, as condition for receiving a Federal disaster grant for the repair or restoration of the flooded structure. However, in such cases FEMA currently requires flood insurance under section 314 of the Act because by definition flood insurance is reasonably available since the community is in the NFIP, and flood insurance is necessary to protect against future flood loss because the pending disaster assistance grant is based on a facility's having been

damaged by a flood (in spite of the fact that the flood-damaged structure was not actually located within an identified flood prone area).

One of the arguments against requiring such insurance is that the requirement goes beyond the scope of NFIP legislation since the facility is outside of an identified flood hazard area. On the other hand, a large portion rotion of the impact of flood disasters occurs outside of areas designated as flood hazard areas. Others argue that flood insurance should be required only if it is determined that a positive benefit-cost ratio will be realized if flood insurance for structures outside of flood hazard areas is obtained and maintained. Consequently, FEMA is soliciting views on whether to retain or eliminate the current requirement at 44 CFR 205.203(f) that disaster assistance grantees obtain and maintain reasonably available, adequate and necessary flood insurance as a condition of receiving disaster assistance grants for the repair and restoration of flood-damaged facilities which are located outside of identified flood hazard areas.

(3) FEMA at one time required grantees to obtain and maintain general hazard insurance and flood insurance as a condition for receipt of Federal disaster assistance grants for insurable structures on all projects, irrespective of the cost of the project. This policy was administratively modified, effective August 15, 1985, when FEMA issued interim policy guidance waiving this requirement for projects less than $5,000 in order to simplify insurance requirements and project administration.

This change in policy was the result of an insurance review, in which five years of automated experience was utilized, from which FEMA concluded the majority of disaster restoration and repair projects for which State and local governments and other eligible grantees could be required to obtain and maintain long-term insurance was for disaster assistance projects costing less than $5,000. This followed a similar review of its flood plain management requirements from which FEMA concluded that it should exempt projects less than $5,000 from the flood plain management review process under 44 CFR Part 9. FEMA is now considering whether to amend 44 CFR Part 205 to incorporate this insurance waiver for projects under $5,000.

The insurance review by FEMA indicated that of the 80,140 individual projects for $1.1 billion prepared during the period October 2, 1980 to September 17, 1986, a total of 54,796 (68 percent), for $88.2 million, were for projects costing less than $5,000. Individual disaster projects range from small projects, such as minor building repair for $250, up to rebuilding large complex facilities costing $35,000,000. Of the 5,180 individual projects for insurable structures totalling $64.8 million which were approved by FEMA since fiscal year 1980, 3,376 projects (over 50 percent) totalling $2.2 million were for disaster assistance less than $5,000 for which prospective insurance could be required. Each of these low dollar value projects required FEMA and State and local government and other eligible grantees to follow administrative procedures to ensure that the insurance requirement was met.

Flood insurance policies issued under the NFIP provide for a deductible up to $5,000, and information from the insurance industry indicates that deductibles of $5,000 and above are normal for insurance policies on commercial structures. Consequently, FEMA issued policy guidance to its Regional Offices on August 15, 1985, to eliminate the previous requirement for flood and general hazard insurance commitments on projects costing less than $5,000. A corresponding change was made to FEMA's Insurance Handbook for Public Assistance, DRR-3, on February 26, 1986.

One argument for requiring insurance commitments even on low dollar value projects is that such structures are obviously subject to damage. The fact that damages might have been low during a specific event does not mean that the structure could not suffer much greater damage in a subsequent disaster. For instance, a structure located in a coastal high hazard area might suffer relatively minor damage in one coastal storm, but could still be at risk to substantial or total destruction if a major hurricane were to strike. Requiring insurance commitments on all Federal investments ensures protection should repetitive damage occur. Comments are solicited to assist FEMA in making a regulatory determination whether or not to require insurance commitments on low dollar value project.

(4) In order to ensure that insurance requirements remain reasonable and meet the goal of reducing the need for future disaster assistance, FEMA is considering the adoption of a combined insurance-mitigation strategy. This approach would provide FEMA with flexibility to require only prospective insurance with no mitigation measures, to require only mitigation measures without insurance, or to require a combination of both insurance and mitigation measures, irrespective of the amount of the Federal assistance. For instance, if a facility located in the 500 year floodplain suffers $100,000 in damage simply because a computer system located in the basement is destroyed, FEMA might require the applicant to mitigate the damage by moving the computer operations to an upper floor and allowing only floodproof materials to be housed in the basement, rather than require insurance. The circumstances would dictate whether mitigation, insurance, or a combination of mitigation and insurance is the best way to protect against future losses.

Such an insurance-mitigation strategy would provide FEMA with flexibility and enable the Agency to reduce future Federal assistance by encourging a true reduction of risk to meet the needs of individual applicants, rather than by imposing an arbitrary amount of insurance coverage on all applicants. The strategy would require the maintenance of automated records and the necessary administrative effort at the Federal, State and local level to administer the program. Such a strategy could be used for projects over $5,000, or for all projects regardless of dollar value. Comments are solicited to obtain views on adopting an insurance-mitigation strategy.

The regulation likely to result from this advanced notice of proposed rulemaking would not have a significant economic impact on a substantial number of small entities, and hence, no regulatory flexibility analysis has been prepared.

The rule likely to result from this advance notice of proposed rulemaking would not be a "major rule" as defined in Executive Order 12291, dated February 17, 1981, and hence, no regulatory analysis has been prepared.

FEMA has determined that the proposed rule likely to result from this advance notice of proposed rulemaking would not contain a collection of information requirement as defined in section 3502 of the Paperwork Reduction Act.

Dated: November 23, 1987.

Dave McLoughlin,

Deputy Associate Director, State and Local Program and Support Provision.

[FR Doc. 87-27249 Filed 11-25-87; 8:45 am]

BILLING CODE 6718-01-M

Notices

Federal Register
Vol. 52, No. 228
Friday, November 27, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Rulemaking; Public Meeting

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Rulemaking of the Administrative Conference of the United States. The committee has scheduled the meeting to discuss research projects, including an on-going study of executive review of Federal agency rules by Professor Harold Bruff.

Date: Thursday, December 17, 1987 at 9:30 a.m.

Location: Library of the Administrative Conference, 2120 L Street NW., Suite 500, Washington, DC.

Public Participation: The committee meeting is open to the interested public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days prior to the meeting. The committee chairman may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

FOR FURTHER INFORMATION CONTACT: Michael W. Bowers, Office of the Chairman, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037. Telephone: (202) 254–7065.

Dated: November 20, 1987.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 87–27214 Filed 11–25–87; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Long Branch PL–566 Watershed, Iowa; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Long Branch PL 566 Watershed, Shelby and Audubon Counties, Iowa.

FOR FURTHER INFORMATION CONTACT: J. Michael Nethery, State Conservationist, Soil Conservation Service, 693 Federal Building, 210 Walnut Street, Des Moines, Iowa 50309, telephone 515–284–4260.

SUPPLEMENTARY INFORMATION: The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, J. Michael Nethery, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for accelerated land treatment. The planned works of improvement include terraces, grade stabilization structures, contour farming and conservation tillage systems.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI and draft plan-environmental assessment are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting J. Michael Nethery.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and proejcts is applicable.)

Date: November 17, 1987.

J. Michael Nethery,

State conservationist.

[FR Doc. 87–27216 Filed 11–25–87; 8:45 am]

BILLING CODE 3410–16–M

COMMISSION ON CIVIL RIGHTS

Montana Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Montana Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 2:00 p.m., on December 12, 1987, at the Sheraton Hotel, 27 North 27th Street, Billings, Montana 59102. The purpose of the meeting is to plan activities and programming for the coming year.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Betty Babcock or Philip Montez, Director of the Western Regional Division (213) 894–3437 (TDD) 213/894–0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, November 12, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87–27217 Filed 11–25–87; 8:45 am]

BILLING CODE 6335–01–M

Nevada Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the Nevada Advisory Committee to the Commission will convene at 2:00

P.M. and adjourn at 4:00 P.M. on December 11, 1987, at the Peppermill Motor Inn, 2707 South Virginia Street, Reno, Nevada. The purpose of the meeting is to discuss information gathered by the Committee on casino/hotel employment opportunities afforded minorities and women and to plan Committee programming.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Elizabeth C. Nozero, or Philip Montez, Director of the Western Regional Division (213) 894–3437, (TDD 213/894–0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, November 19, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87–27218 Filed 11–25–87; 8:45 am]

BILLING CODE 6335–01–M

New Mexico Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Mexico Advisory Committee to the Commission will convene at 2:00 p.m. and adjourn at 6:00 p.m. on December 10, 1987, at the Hilton of Santa Fe, 100 Sandoval Street, Santa Fe, New Mexico 87501. The purpose of the meeting is to discuss issues relating to the impact of immigration reform on New Mexico; and to consider other civil rights issues affecting the State.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Vincent Montoya, or Philip Montez, Director of the Western Regional Division (213) 894–3437, (TDD 213–894–3437). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, November 12, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87–27219 Filed 11–25–87; 8:45 am]

BILLING CODE 6335–01–M

South Carolina Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the South Carolina Advisory Committee to the Commission will convene at 11:00 a.m. and adjourn at 4:00 p.m. on December 18, 1987, at the Omni Hotel, 130 Market Street, Charleston, SC 29401–3133. The purpose of the meeting is to discuss plans for prospective community forums on minority incarceration and treatment in the South Carolina juvenile justice system; and impediments to eliminating racial bias in the electoral process.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Vice Chairperson Oscar Butler (803–536–7040) or John I. Binkley, Director of the Eastern Regional Division at (202) 523–5264 (TDD 202/376–8117). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, November 12, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87–27220 Filed 11–25–87; 8:45 am]

BILLING CODE 6335–01–M

West Virginia Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the West Virginia Advisory Committee to the Commission will convene at 1:30 p.m. and adjourn at 4:30 p.m. on December 10, 1987, at the Huntington Civic Center, Room 14, 8th St. & 3rd Ave., Huntington, WV 25727. The purpose of the meeting is to discuss the status of the agency, plan its future activities, and hold a community forum on "Under-representation of Minorities and Women in Institutions of Higher Education in West Virginia" and "Local Civil Rights Issues."

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Adam R. Kelly (304–652–4141) or John I. Binkley, Director of the Easter Regional Division at (202) 523–5264, (TDD 202/376–8117). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, November 12, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87–27221 Filed 11–25–87; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Federal Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

Department of Agriculture

SN 6–725,720 (4,584,057) Membrane Processes For Separation Of Organic Acids From Kraft Black Liquors

SN 6–755,242 Novel Enzymes Which Catalyze the Degradation and Modification of Lignin

SN 6–892,006 (4,699,354) Retrofit Device for Alfalfa Valves

SN 7–024,944 25,28-Dihydroxyergocalciferol and 1,25,28-Trihydroxyergocalciferol
SN 7–059,986 Dyeable Smooth-Dry Crosslinked Cellulosic Material
SN 7–063,358 Process for Converting Alpha to Beta-Lactose
SN 7–068,497 Method for Reduction of Endotoxin in Cotton Lint or Dust
SN 7–069,295 Preparation of Pellets Containing Fungi for Control of Soilborne Diseases
SN 7–071,948 Revertant Serotype 1 Marek's Disease Vaccine
SN 7–071,949 Serotype 2 Marek's Disease Vaccine
SN 7–072,205 Starch Encapsulation of Biocontrol Agents
SN 7–080,278 Vectors for Gene Insertion Into Avian Germ Line
SN 7–087,356 Novel Approaches Useful for the Control of Root Nodulation of Leguminous Plants
SN 7–093,951 Prevention of Fescue Toxicosis
SN 7–098,167 Biological Control of Fruit Rot
SN 7–098,174 Method for the Preparation of Mycoherbicide Containing Pellets

Department of Commerce

SN 6–838,726 (4,699,551) Method and Apparatus For Measuring Machine Cutting Tool Positions
SN 6–838,748 (4,694,230) Micromanipulator System

Department of Health and Human Services

SN E–159–85 An Ultra-Fast Solid State Power Interrupter
SN E–430–87 Use of Mangenetization Transfer For Nuclear Magnetic Resonance Imaging
SN E–431–76 Water Soluble Products of Camptothecin
SN E–530–86 Immunotoxins
SN 6–874,143 Molecular Probes for Adenosine Receptors
SN 7–055,226
Noncytoacidal Variants of Human Immunodeficiency Virus (HIV)
SN 7–005,227
A Human Immunodeficiency Virus Associated With Neuropathology
SN 7–072,666
Substrates Resistant To the Activity of 2′ —5′ —Phosphodiesterase
SN 7–073,685
Second Generation Monoclonal Antibodies Having Binding Specificity To TAC–72 and Human Carcinomas and Methods For Employing the Same
SN 7–088,220
Hepatitis-A Vaccine
SN 7–089,995
New Plasmid System

Department of the Interior

SN 6–357,363 (4,701,712) Thermoregulated Magnetic Susceptibility Sensor Assembly
SN 6–623,753 (4,692,875) Metal Alloy Identifier
SN 6–669,155 (4,695,378) Acid Mine Water Aeration and Treatment System
SN 6–791,286 (4,696,571) Suspended Sediment Sensor

Department of the Air Force

SN 6–872,587
Multifunctional Microstrip Antennas
SN 7–049,363
Solid State Gas Pressure Sensor

Department of the Army

SN 6–210,267 (4,698,106)
Method For the Manufacture of Exidizers Of Very Large Surface Area and Their Use in High Burning Rate Propellants
SN 6–935,993
Accurate Electronic Thermometer
SN 7–070,840
Adjustable Antibacklash Gear System
SN 7–084,278
Improved Electrolyte For User In an All Inorganic Rechargeable Cell and Lithium Inorganic Cell Containing the Improved Electrolyte
SN 7–094,202
High-Q, Stress-Compensated Crystal Device
SN 7–099,372
Switchable Millimeter Wave Microstrip Circulator

[FR Doc. 87–27223 Filed 11–25–87; 8:45 am]
BILLING CODE 3510–04–M

Presidential Board of Advisors on Private Sector Initiatives; Open Meeting

AGENCY: Office of the Secretary, Office of the General Counsel and Office of Business Liaison, Commerce.

SUMMARY: The Presidential Board of Advisors on Private Sector Initiatives will hold a meeting on December 10, 1987. Committee meetings will also be held on this date. Public comment is welcome.

Time and Place:

Presidential Board of Advisors on Private Sector Initiatives, Thursday, December 10, 1987, 2:30 p.m.–4:00 p.m., in the 21st Floor Auditorium of the Gannett Tower, 1100 Wilson Boulevard, Arlington, Virginia. Room to be Posted.

Committee Meetings

Thursday, December 10, 1987, 1:15 p.m.–2:15 p.m. in the Gannett Tower, 1100 Wilson Boulevard, Arlington, Virginia. Rooms to be Posted.

FOR FURTHER INFORMATION CONTACT: The Committee Control Officer, Mr. Robert H. Brumley, Deputy General Counsel, U.S. Department of Commerce, (202/377–4772) or the Alternate Control Officer, Nancy J. Olson, Director, Office of Business Liaison, U.S. Department of Commerce, (202/377–3942), Main Commerce Building, Washington, DC 20230.

Date: November 23, 1987.

Robert H. Brumley,

Deputy General Counsel.

[FR Doc. 87–27464 Filed 11–25–87; 8:45am]
BILLING CODE 3510–BP–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Extension of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in the People's Republic of China

November 23, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 27, 1987. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 566–6828. For information on embargoes and quota re-openings, please call (202) 377–3715. For information on categories on which consultations have been requested call (202) 377–3740.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton handbags in Category 369–H, produced or manufactured in the People's Republic of China and exported during the twelve-month period which begins on November 27, 1987 and extends through November 26, 1988, in excess of the designated level of restraint.

Background

On January 8, 1987, a notice was published in the **Federal Register** (52 FR

1953) which announced the establishment of an import restraint limit for certain cotton textile products in Category 369–H, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on November 27, 1986 and extends through November 26, 1987 pending agreement on a mutually satisfactory solution concerning this category between the Governments of the United States and the People's Republic of China. To avoid continued risk of market disruption, the Committee for the Implementation of Textile Agreements, in accordance with Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles, done in Geneva on December 20, 1973 and extended by protocols on December 14, 1977, December 22, 1981 and July 31, 1986; and the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated August 19, 1983, as amended, has decided to extend the restraint level for the twelve-month period which begins on November 27, 1987 and extends through November 26, 1988.

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the **Federal Register.**

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

November 23, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement on August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on November 27, 1987, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 369–H[1], produced or manufactured in the People's Republic of China and exported during the twelve-month period which begins on November 27, 1987 and extends through November 26, 1988, in excess of 5,600,558 pounds.

Goods shipped in excess of the twelve-month limit established in the directive of January 8, 1987, which began on November 27, 1986 and extends through November 26, 1987 shall be subject to the level set forth in this letter.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87–27336 Filed 11–25–87; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Malaysia

November 20, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 30, 1987. For further information contact Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 343–6496. For information on embargoes and quota re-openings, please call (202) 377–3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the import restraint limits and sublimits for certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Malaysia and exported during 1987.

Background

CITA directives dated December 22, 1986 and July 6, 1987 (51 FR 47047 and 52 FR 26061) established import restraint limits for certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Malaysia and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

The Bilateral Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement, effected by exchange of notes dated July 1, and 11, 1985, as amended, between the Governments of the United States and Malaysia, provides, among other things, for percentage increases in certain categories, provided a corresponding reduction in equivalent square yards is made in one or more other specific limits during the agreement year (swing); for the carryover of shortfalls in certain categories from the previous agreement year (carryover); and for the borrowing of yardage from the succeeding year's limit with the amount used being deducted from the limit in the succeeding year (carryforward).

In accordance with the terms of the bilateral agreement and at the request of the Government of Malaysia, flexibility in the form of swing, carryover and carryforward used in 1986 is being applied, variously, to Categories 331, 333/334/335/835, 336, 337/637, 338/339, 340/640, 341/641, 342/642/842, 345, 347/

[1] In Category 369–H, only TSUSA numbers 706.3640 and 706.4106.

348, 351/651, 369–S, 435, 438pt., 442, 445/446, 604, 605–T/369–W, 613, 631, 634/635, 636, 638/639, 645/646 and 647/648, produced or manufactured in Malaysia and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of The United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

William J. Dulka,

Acting Chairman, Committee for the Implementation of Textile Agreements.

November 23, 1987.

Committee for the Implementation of Textile Agreements

November 20, 1987.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directives of December 22, 1986 and July 6, 1987, issued to you by the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Malaysia and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on November 30, 1987, the directives of December 22, 1986 and July 6, 1987 are hereby amended to include adjusted limits for cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, pursuant to the terms of the Bilateral Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement, effected by exchange of notes dated July 1 and 11, 1985, as amended: [1]

Category	Adjusted 12-mo. limit [1]
331	773,386 dozen pairs.
333/334/335/835.	138,750 dozen of which not more than 69,375 dozen each shall be in Categories 333 and 334 and not more than 65,693 dozen shall be in Category 335.
336	81,068 dozen.
337/637	223,554 dozen.
338/339	608,338 dozen.
340/640	693,971 dozen.
341/641	913,263 dozen of which not more than 347,715 dozen shall be in Category 341.
342/642/842	238,650 dozen.
345	87,598 dozen.
347/348	246,397 dozen.
351/651	149,850 dozen.
369–S [2]	611,105 pounds.
435	12,600 dozen.
438pt. [3]	8,161 dozen.
442	15,750 dozen.
445/446	29,441 dozen.
604	1,675,665 pounds.
605–T [4]/369–W [5].	319,946 pounds.
613	19,269,471 square yards.
631	418,129 dozen pairs.
634/635	467,699 dozen of which not more than 205,350 dozen shall be in Category 635.
636	171,150 dozen.
638/639	289,693 dozen.
645/646	212,023 dozen.
647/648	997,757 dozen of which not more than 685,293 each shall be in Categories 647pt. [6] and 648pt. [7]

[1] The limits have not been adjusted to account for any imports exported after December 31, 1986.

[2] In Category 369–S, only TSUSA number 366.2840.

[3] In Category 438pt., all TSUSA numbers except 384.1307, 384.1309, 384.2711, 384.5434, 384.5910, 384.6310, 384.7724 and 384.9640.

[4] In Category 605–T, only TSUSA number 310.9500.

[5] In Category 369–W, only TSUSA number 303.2040.

[6] In Category 647pt., only TSUSA Numbers 381.2350, 381.2370, 381.2375, 381.2859, 381.6679, 381.8531, 381.8730, 381.8815, 381.8835, 381.8840 and 381.9234.

[7] In Category 648pt., only TSUSA numbers 384.1926, 384.1927, 384.1929, 384.1950, 384.2010, 384.2015, 384.2017, 384.2030, 384.2040, 384.2050, 384.2267, 384.2722, 384.5482, 384.7756, 384.8241, 384.8242, 384.8244, 384.8245, 384.8247, 384.8256, 384.8258, 384.8262, 384.8263, 384.8265, 384.8682 and 791.7458.

[1] The agreement provides, in part, that (1) specific limits or sublimits may be exceeded by not more than 5 percent, provided a corresponding reduction in equivalent square yards is made in one or more other specific limits during the same agreement year; (2) specific limits may be adjusted for carryover and carryforward up to 11 percent of the applicable category limits; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

William J. Dulka,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87–27299 Filed 11–25–87; 8:45 am]

BILLING CODE 3510–DR–M

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange Proposed Amendments Relating to Speculative Position Limits for Futures and Option Contracts in Live Cattle, Feeder Cattle and Live Hogs

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The Chicago Mercantile Exchange ("CME" or "Exchange") has submitted proposals to revise its speculative position limit rules for futures and options on futures for live cattle, live hogs and feeder cattle. As proposed, the revised limits for each commodity would apply jointly to positions in options and futures rather than separately for futures and each type of option. In addition, the Exchange is proposing an explicit speculative limit to apply to all contract months combined for live cattle futures and is proposing to increase the limits for positions in the spot month of the live hog and live cattle futures contracts. The Commission has determined that publication of the proposal is in the public interest, will assist it in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before January 26, 1988.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to CME proposed speculative limits for livestock futures and options.

FOR FURTHER INFORMATION CONTACT: Fred Linse, Division of Economic Analysis, Commodity Futures Trading

Commission, 2033 K Street NW., Washington, DC 20581, (202) 254–7303.

SUPPLEMENTARY INFORMATION:

Description of Proposal

CME rules for live cattle futures, options on live cattle futures, feeder cattle futures, options on feeder cattle futures, live hog futures, and options on live hog futures specify limits on the maximum positions a person may own or control in each of these six contracts. Positions which are bona fide hedging as determined by the Exchange pursuant to the definition in Commission Rule 1.3(z) may be exempted from these limits. Accordingly, these position limits are commonly referred to as "speculative limits."

The CME's speculative limits for live cattle, feeder cattle and live hogs are currently specified separately for option and futures positions. Specifically, the futures contracts for live cattle, live hogs, and feeder cattle set forth specific maximum limits on the size of speculative futures positions for positions held during the expiration period of each contract ("spot month") and in individual trading months during periods other than the spot month. In addition, the feeder cattle and live hog futures contracts specify a limit on positions held in all futures contracts months combined.

The CME's option contracts for live cattle, feeder cattle, and live hogs also specify speculative position limits in terms of positions held in individual option contract months and in terms of all option contract months combined. In addition, the feeder cattle option contract specifies speculative position limits for option positions held during expiring option contract months.[1] Each of these option limits are specified separately for each type of option (*i.e.*, separately for long calls, short calls, long puts and short puts) and are stated in terms of futures equivalents.[2]

The proposed amendments will establish speculative position limits for a trader's combined positions in the Exchange's option and future contracts for each of the three subject commodities. These proposed speculative position limit rules for each of the three commodities will apply to a trader's net combined option and futures position on the same side of the market. Long futures, long calls and short puts are considered to be on the same (long) side of the market. Similarly, short futures, short calls and long puts are considered to be on the same (short) side of the market. For purposes of the proposed combined limits, option contracts will continue to be denominated in futures equivalents, although a maximum number of unadjusted or nominal option contracts on the same side of the market would also be specified for individual trading months. Table 1 provides a summary comparison of certain aspects of the current and proposed rules and the text of the proposed amendments appear in a subsequent section of this notice.

TABLE 1.—CURRENT AND PROPOSED CME LIMITS FOR NET POSITIONS IN LIVESTOCK FUTURES AND OPTIONS CONTRACTS

Contract/types	Current futures limit (net)	Current option limit per option type [1] (in futures equivalents)	Sum of current limits on one side of the market [2] (in futures equivalents)	Proposed combined (net) limits on one side of the market [3] (in futures equivalents)
Live cattle:				
All months combined	[4] None	1,000	NA	6,000
Individual month	450	450	1,350	1,200
Spot month	300	[5] NA	[5] 300	600
Feeder cattle:				
All months combined	1,200	1,000	3,200	6,000
Individual month	600	600	1,800	1,200
Spot month	600	600	900	600
Last 10 days [6]	300	[7] 300	[7] 300	[7] 300
Live hogs:				
All months combined	1,500	1,000	3,500	6,000
Individual month	450	450	1,350	1,200
Spot month	300	[5] NA	[5] 300	600

[1] Current option position limits for live cattle, feeder cattle and live hogs provide for higher limits for each type of option (*i.e.*, long calls, short calls, long puts, short puts) provided that the portion of such positions which is in excess of the outright limits must be part of delta-neutral intra-month option/futures spreads or option/option spreads. For the live cattle and live hog options, these higher position limits are 2,000 futures equivalent options for each type in all months combined and 900 futures equivalent options of each type in individual months. For the feeder cattle option, these higher limits are 2,000 futures equivalent options of each type in all months combined and 1,200 futures equivalent options of each type in individual months.

[2] For the purposes of expressing position limits in terms of one side of the market, long call options, short put options and long futures contracts are considered to be on the long side of the market; similarly, short call options, long put options and short futures contracts are considered to be on the short side of the market.

[3] The proposed limits for options also would impose a limit of 3,600 nominal option contracts on each side of the market in each contract month.

[1] The live cattle and live hog option contracts do not specify spot month position limits for options, because the individual option contract months for these contracts expire prior to the delivery periods for their respective underlying futures.

[2] The futures equivalent of an option contract is determined by multiplying the number of contracts held by the contract's "delta factor" for the purpose of placing the option on an equal basis with the underlying futures with respect to the price movement and market exposure associated with a particular option series. The delta factor expresses as a ratio the amount the option premium will change for a given change in the price of the underlying futures. For a particular option series it can range between 0 and 1.0 depending upon factors including the length of time until expiration and the relationship of the strike price to current futures prices. Particular delta values must be routinely updated as they are appropriate for only small changes in the price of the underlying futures contract. In this respect, the CME rules define the futures equivalent of an option position in terms of the Exchange-calculated delta factor based on the previous day's closing futures prices.

[4] There is no explicit all-months-combined position limit for the live cattle futures contract. However, an implied limit on all-months-combined positions may be calculated by multiplying the number of all delivery months typically listed for trading at one time (six or seven) by the position limit on individual months (450). This results in a limit of 2,700 to 3,150 contracts.

[5] The option expires prior to first notice day. Therefore, the current limit on futures and the sum of the current option and futures limits for the spot month are the same.

[6] The stated limits are applicable during the last 10 days of trading in the underlying future.

[7] During the last 10 days of trading, a total combined position limit of 300 futures and futures equivalent options net on the same side of the market is applicable.

In its preliminary review of the proposals, the Commission has noted three ways in which the proposals affect the level of outright market positions which can be maintained in futures and/or options for each of the three commodities. First, in each of the three commodities, the proposals would increase for all contract months combined and reduce for individual contract months (other than the spot month) the net combined futures and option position which can be held on one side of the market.[3] For example, the current speculative position limits for the live hog futures and option contracts provide for a limit of 3,500 futures and futures equivalent option contracts on the same side of the market for all contract months combined.[4] The proposed amendments would increase this all contract months combined limit to 6,000 live hog futures and futures equivalent option contracts net on the same side of the market. Similarly, the current individual contract month speculative position limits for the live hog futures and option contracts result in a combined limit of 1,350 futures and futures equivalent option contracts on the same side of the market. Under the proposed amendments, the individual contract month speculative limit for live hog futures and option contracts would reduce this amount to 1,200 futures and futures equivalent option contracts.[5]

Second, the proposed rules allow any combination of futures and futures equivalent option contracts to be held on one side of the market in accordance with the single aggregate net limit. Accordingly, independent of the revised levels, the proposals allow a greater number of positions on the same side of the market to be held in futures exclusively, or exclusively in a single type of option. For example, under the current separate futures and option rules a trader can hold in a single contract month 450 long live hog futures plus 450 futures equivalent long calls plus 450 futures equivalent short puts, for a total of 1,350 futures and futures equivalent option contracts on the long side of the market. Under the revised rules the trader can hold 1,200 long futures or 1,200 futures equivalent long calls or 1,200 futures equivalent short puts provided that the total of these positions is no more than 1,200 futures or futures equivalents. Thus, even though the maximum number of positions on one side of the market is reduced from 1,350 futures or futures equivalents to 1,200, the maximum amount that can be held in any one type of option or in futures is increased.

Third, the proposed amendments would increase the speculative position limits applicable to futures positions held during the delivery month for expiring live cattle and live hog futures contracts. For both the live cattle and live hog futures contracts, the proposals provide that the spot month limit would be increased to 600 from 300 futures contracts.

The CME states that the proposed amendments will be made effective with respect to all existing and newly listed contracts following Commission approval.

According to the Exchange, the current amendments have been proposed:

* * * because: (1) the present limits are constraining; (2) commodity funds are of growing importance; (3) hedgers and professional options traders need more volume and liquidity; (4) the position limits in the livestock markets are virtually the lowest in the industry; (5) the proposed changes are consistent with deliverable supply; (6) the proposed changes are consistent with deliverable capacity; (7) the Exchange has an exemplary record of maintaining orderly markets; (8) these three closely related commodities must have unified position limit rules; and (9) the position limit rule in livestock options must be simplified.

The Exchange believes that the proposed amendments will result in simpler limits and facilitate market liquidity. The Exchange also believes that the proposed amendments are consistent with historic open interest.

The Commission has determined that publication of the proposal is in the public interest, will assist it in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act. Further, the CME has requested that the comment period for the proposed amendments be sixty days following their publication in the **Federal Register** and the Commission agrees that this is appropriate.

While the Commission is seeking comment on all significant aspects of the proposed amendments, it is requesting specific comment on certain particular aspects of the proposals to assist it with its evaluation. These specific items are as follows:

1. *Spot month limits.* As noted, the spot month limits for live cattle and live hog futures contracts are being increased to 600 contracts from 300 contracts in each case. The Commission is seeking views on whether these proposed levels are adequate for purposes of preventing disruption during the delivery month in view of the supplies economically available for delivery on each contract.

2. *Individual Contract Month Limits.* As noted, the Exchange has proposed combined futures/option limits for each contract month and these proposed limits are generally less than the sum of current separate limits for individual non-spot months in futures and options (*e.g.*, long futures plus long calls plus short puts). However, as noted, another effect would be to allow increased positions in each of the three categories for which separate limits are currently

[3] As noted above and as shown in Table 1, the live cattle futures contract currently does not specify a speculative position limit for all futures contract months combined. However, a position limit on all futures contract months combined of 2,700 to 3,150 contracts is implied based on the limits applicable to individual contract months and the number of contract months typically listed for trading at the same time. As shown in Table 1, the CME's proposals would establish on all contract months combined speculative position limit of 6,000 live cattle futures and futures equivalent option contracts.

[4] As shown in Table 1, the current live hog futures position limit for all months combined is 1,500 contracts. The current live hog option contract speculative position limit for all contract months combined is 1,000 futures equivalent option contracts for each type of option (*i.e.*, long calls, short calls, long puts, or short puts). Therefore, the implied position limit for all contract months combined for both live hog futures and options on the same side of the market is 3,500 futures and futures equivalent option contracts (*e.g.*, for the long side of the market, the implied position limit is 1,500 futures contracts plus 1,000 futures equivalent long call options and 1,000 futures equivalent short put options).

[5] The proposed amendment also would establish a limit on the nominal number of option contracts (*i.e.*, not adjusted by delta factors) of 3,600 contracts for positions held on the same side of the market in individual contract months for the live cattle, live hog, and feeder cattle option contracts.

specified (*e.g.*, long futures, long calls or short puts). The Commisison specifically requests comment on this aspect of the proposal for each commodity. Commenters should address the matter of the adequacy of liquidity in puts, calls and futures on the same side of the market, both individually and on a combined basis, in relation to the proposed limits.

3. *All Months Combined Limits.* The Exchange has proposed for each commodity a combined futures and option limit for each side of the market for all contract months combined. In each case this limit is higher than the current sum of the separate limits which are expressly stated or implied for futures and options.[6] The Commission requests comments on this aspect of the proposal. Persons commenting should take into consideration the combined and separate liquidity of options and futures in each commodity and the economic inter-relation between delivery months.

Text of Proposal

The proposed amendments are printed below with brackets indicating deletions and italics indicating additions:

LIVE CATTLE FUTURES

1502. FUTURES CALL.—

E. Position Limits

[A person shall not own or control more than 450 contracts long or short in any contract month, except as provided in Rules 6001.E. and 6001.G. and except that in no event shall he own or control more than 300 contracts in the spot month.]

No person shall own or control more than:

3) 6,000 contracts net long or short in all contract months combined
2) 1,200 contracts long or short in any contract month
3) 600 contracts long or short in the spot month except as provided in Rules 6001.E and 6001.G.

OPTIONS ON LIVE CATTLE FUTURES

6001. OPTIONS CHARACTERISTICS.—

E. Position Limits

[1. No person shall own or control, in any one contract month, more than:
900 futures equivalent long calls,
900 futures equivalent short calls,
900 futures equivalent short puts,
900 underlying futures contracts, long or short,

provided that, for any position in excess of 450 futures equivalent options contracts in any one of the above categories or in excess of 450 futures contracts, the excess position must be part of intra-month option/futures or option/options spreads.

2. In addition, no person shall own or control, in all contract months combined, more than:

2,000 futures equivalent long calls,
2,000 futures equivalent short calls,
2,000 futures equivalent long puts,
2,000 futures equivalent short puts,

provided that, for any position in excess of 1,000 futures equivalent options contracts in any of the above categories the excess position must be part of intra-month or inter-month option/futures or option/options spreads.

3. For purposes of this rule:

a. The futures equivalency of an option contract is the previous day's IOM risk factor for the option series.

b. A spread is a combination of options or of options and underlying futures for which the sum of the IOM risk factors is zero, where

i. the IOM risk factor for a long futures contract is +1, and for a short futures contract is −1,

ii. long calls and short puts have positive IOM risk factors,

iii. short calls and long puts have negative IOM risk factors.

4. The provisions of this rule take precedence over the non-spot month provisions of Rule 1502.E.]

No person shall own or control a combination of options and underlying futures that exceeds:

1) 6,000 futures equivalent contracts net on the same side of the market in all contract months combined
2) 1,200 futures equivalent contracts net on the same side of the market in any contract month
3) 3,600 option contracts on the same side of the market in any contract month

For the purpose of this rule, the futures equivalence of an option contract is 1 times the previous business day's IOM risk factor for the option series. Also for purposes of this rule, a long call option, a short put option, and a long underlying futures contract are on the same side of the market; similarly, a short call option, a long put option and a short underlying futures contract are on the same side of the market.

FEEDER CATTLE FUTURES

2302. FUTURES CALL.—

E. Position Limits

[A person shall not own or control more than 1,200 contracts net long or net short in all contract months combined, nor more than 600 contracts in any contract month, except that in no event shall a person own or control more than 300 contracts in the spot month during the last 10 days of trading.]

No person shall own or control more than:

1) *6,000 contracts net long or short in all contract months combined*
2) *1,200 contracts long or short in any contract month*
3) *600 contracts long or short in the spot month*
4) *300 contracts long or short in the spot month during the last ten days of trading*

except as provided in Rules 6301.E and 6301.G.

OPTIONS ON FEEDER CATTLE FUTURES

6301. OPTION CHARACTERISTICS.—

E. Position Limits

[1. No person shall own or control, in any one contract month, more than:

1,200 futures equivalent long calls,
1,200 futures equivalent short calls,
1,200 futures equivalent long puts,
1,200 futures equivalent short puts,
1,200 underlying futures contracts, long or short,

provided that, for any position in excess of 600 futures equivalent options contracts in any one of the above categories or in excess of 600 future contracts, the excess position must be part of intra-month option/futures or option/option spreads.

2. In addition, commencing on the first day of the contract month, no person shall own or control a combination of spot month options and spot month underlying futures that exceeds 900 futures equivalent contracts net on the same side of the market.

3. In addition, during the last 10 days of trading, no person shall own or control a combination of spot month options and spot month underlying futures that exceeds 300 futures equivalent contracts net on the same side of the market.

4. In addition, no person shall own or control, in all contract months combined, more than:

2,000 futures equivalent long calls,
2,000 futures equivalent short calls,
2,000 futures equivalent long puts,
2,000 futures equivalent short puts,

provided that, for any position in excess of 1,000 futures equivalent options contracts in any one of the above categories the excess position must be

[6] As noted, the live cattle futures contract does not currently specify a speculative position for all futures contract months combined. However, as noted above, an all-futures-combined position limit of 2,700 to 3,150 contracts is implied based on limits applicable to individual contract months and the number of contract months typically listed for trading at the same time.

part of intra-month or inter-month option/futures or option/option spreads.

5. For purpose of this rule:

a. The futures equivalency of an option contract is the previous day's IOM risk factor for the option series.

b. A spread is a combination of options or of options and underlying futures for which the sum of the IOM risk factors is zero, where

i. the IOM risk factor for a long futures contract is +1, and for a short futures contract is −1,

ii. long calls and short puts have positive IOM risk factors,

iii. short calls and long puts have negative IOM risk factors.

6. The provisions of this rule take precedence over the non-spot month provisions of Rule 2302.E]

No person shall own or control a combination of options and underlying futures that exceeds:

1) *6,000 futures equivalent contracts net on the same side of the market in all contract months conbined*
2) *1,200 futures equivalent contracts net on the same side of the market in any contract month*
3) *3,600 option contracts on the same side of the market in any contract month*
4) *600 futures equivalent contracts net on the same side of the market in the spot month; and 300 futures equivalent contracts net on the same side of the market in the spot month during the last ten days of trading.*

For the purpose of this rule, the futures equivalance of an option contract is 1 times the previous business day's IOM risk factor for the option series. Also for purposes of this rule, a long call option, a short put option, and a long underlying futures contract are on the same side of the market; similarly, a short call option, a long put option, and a short underlying futures contract are on the same side of the market.

LIVE HOG FUTURES

1602. FUTURES CALL.—

E. Position Limits

[A person shall not own or control more than 1,500 contracts net long or short in all contract months combined nor more than 450 contracts in any contract month, except as provided in Rules 6101.E. and 6101.G. and except that in no event shall he own or control more than 300 contracts in the spot month.]

No person shall own or control more than:

1) *6,000 contracts net long or short in all contract months combined*
2) *1,200 contracts long or short in any contract month*
3) *600 contracts long or short in the spot month*

except as provided in Rules 6101.E and 6101.G.

OPTIONS ON LIVE HOG FUTURES

6101. OPTION CHARACTERISTICS—

E. Position Limits

[1. No person shall own or control, in any one contract month, more than:
900 futures equivalent long calls,
900 futures equivalent short calls,
900 futures equivalent long puts,
900 futures equivalent short puts,
900 underlying futures contracts, long or short,

provided that, for any position in excess of 450 future equivalent options contracts in any one of the above categories or in excess of 450 futures contracts, the excess position must be part of intra-month option/futures or option/option spreads.

2. In addition, no person shall own or control in all contract months combined, more than:
2,000 futures equivalent long calls,
2,000 futures equivalent short calls,
2,000 futures equivalent long puts,
2,000 futures equivalent short puts,

provided that, for any position in excess of 1,000 futures equivalent options contracts in any one of the above categories the excess position must be part of intra-month or inter-month option/futures or option/option spreads.

3. For purposes of this rule:

a. The futures equivalency of an option contract is the previous day's IOM risk factor for the option series.

b. A spread is a combination of options or of options and underlying futures for which the sum of the IOM risk factors is zero, where

i. the IOM risk factor for a long futures contract is +1, and for a short futures contract is −1,

ii. long calls and short puts have positive IOM risk factors,

iii. short calls and long puts have negative IOM risk factors.

4. The provisions of this rule take precedence over the non-spot month provisions of Rule 1602.E.]

No person shall own or control a combination of options and underlying futures that exceeds:

1) 6,000 futures equivalent contracts net on the same side of the market in all contract months combined

2) 1,200 futures equivalent contracts net on the same side of the market in any contract month

3) 3,600 option contracts on the same side of the market in any contract month

For the purpose of this rule, the futures equivalence of an option contract is 1 times the previous business day's IOM risk factor for the option series. Also for purposes of this rule, a long call option, a short put option, and a long underlying futures contract are on the same side of the market; similarly, a short call option, a long put option, and a short underlying futures contract are on the same side of the market.

Additional Information

Other materials submitted by the CME in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1984)), except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, by January 26, 1988.

Issued in Washington, DC on November 23, 1987.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87-27321 Filed 11-25-87; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of DOD Retirement Board of Actuaries

Under the provisions of Public Law 92-463, Federal Advisory Committee Act, notice is hereby given that the DOD Retirement Board of Actuaries has been renewed in accordance with Public Law 98-44, section 925.

Linda M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

November 20, 1987.

[FR Doc. 87-27260 Filed 11-25-87; 8:45 am]

BILLING CODE 3810-01-M

Defense Intelligence Agency Scientific Advisory Committee; Closed Meeting

AGENCY: Office of the Secretary, DOD.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a panel of the DIA Scientific Advisory Committee has been rescheduled from 17 November 1987 as follows:

DATE: Monday, 7 December 1987, 9:00 a.m. to 5:00 p.m.

ADDRESS: The DIAC, Bolling AFB, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John E. Hatlelid, USAF, Executive Secretary, DIA Scientific Advisory Committee, Washington, DC 20340–1328, (202 373–4930).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on intelligence support systems.

Linda Bynam,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

November 30, 1987.

[FR Doc. 87–27261 Filed 11–25–87; 8:45 am]

BILLING CODE 3810–01–M

Advisory Committee on Integrated Long-Term Strategy, Meeting

AGENCY: Office of the Secretary, DOD.

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Advisory Committee on Integrated Long-Term Strategy will meet in closed session on 5 December 1987 in Room 3E869, The Pentagon, Washington, DC.

The mission of the Advisory Committee on Integrated Long-Term Strategy is to provide the Secretary of Defense and the Assistant to the President for National Security Affairs with an independent, informed assessment of the policy and strategy implications of advanced technologies for strategic defense, strategic offense and theater warfare, including conventional war. At this meeting the Committee will hold classified discussions of national security matters dealing with long term strategy and policy.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L 92–463, as amended [U.S.C. App. II, (1982)], it has been determined that this Advisory Committee meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1982), and that accordingly these meetings will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

November 19, 1987.

[FR Doc. 87–27262 Filed 11–25–87; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Advanced Naval Warfare Concepts; Meeting

AGENCY: Office of the Secretary, DOD.

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Advanced Naval Warfare Concepts will meet in closed session on January 11–12, 1988 at the Center for Naval Analyses, Alexandria, Virginia.

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 examine advanced naval warfare concepts and assess relevant technology, equipment, and modernization plans.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 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.

November 19, 1987.

Linda M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 87–27263 Filed 11–25–87; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

National Advisory and Coordinating Council on Bilingual Education; Meeting

AGENCY: Education Department.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory and Coordinating Council on Bilingual Education. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: December 14 and 15, 1987, 9:15 a.m. until 5:00 p.m.

The meeting will be conducted at the Grand Hyatt Hotel, 1000 "H" Street, Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Anna Maria Farias, Designated Federal Official, Office of Bilingual Education and Minority Language Affairs, Reporter's Building, Room 421, 400 Maryland Avenue, SW., Washington, DC 20202 [202) 732–5063.

SUPPLEMENTARY INFORMATION: The National Advisory and Coordinating Council on Bilingual Education is established under section 752(a) of the the Bilingual Education Act (20 U.S.C. 3262). NACCBE is established to advise the Secretary of the Department of Education concerning matters arising in the administration of Bilingual Education Act and other laws effecting the of limited English proficient populations. The meeting of the Council is open to the public.

The proposed agenda includes the following:

I Roll Call
II Approval of Minutes of Previous Meeting
III Introduction of Visitors
IV Presentation of Information by OBEMLA Director or Designee
V Presentation of information by Members of General Public or Organization on Agenda Items (Limited to 5 minutes per person from any one group)
IV Committee Reports
VII Old Business
VIII New Business
IX Meetings of Individual Committees
X Reconvening of Council
XII Adjournment

The public is being given less than 15 days notice of the meeting due to the unavailability of hotel space and the lack of a quorum.

Records are kept of all Council proceedings and are available for public inspection at the Office of Bilingual Education and Minority Languages Affairs, Reporter's Building, Room 421, 400 Maryland Avenue, SW., Washington, DC 20202, Monday through Friday from 9:00 a.m.–5:30 p.m.

Dated: November 23, 1987.

Rudolph J. Munis,

Acting Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 87-27309 Filed 11-25-87; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangement; Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" pursuant to general license issued by the U.S. Nuclear Regulatory Commission.

The subsequent arrangement to be carried out under the above-mentioned authority involves approval of the following sale:

Contract Number S-JA-379, for the sale of 7 kilograms of lithium enriched in the isotope lithium-6 to the Kyoto University Research Reactor Institute, Tokyo, Japan.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Date: November 20, 1987.

For the Department of Energy.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 87-27338 Filed 11-25-87; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangements; West Germany and Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" pursuant to general licenses issues by the U.S. Nuclear Regulatory Commission.

The subsequent arrangements to be carried out under the above-mentioned authority involves approval of the following sales:

Contract Number S-EU-929, for the sale of 296.8 grams of natural uranium to Nukem, GmbH, Hanau, the Federal Republic of Germany, for use as standard reference material.

Contract Number S-JA-380, for the sale of 445.2 grams of natural uranium to the Seishim Trading Co., Ltd., Kobe, Japan, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

Date: November 20, 1987.

For the Department of Energy.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 87-27340 Filed 11-25-87; 8:45 am]

BILLING CODE 6450-01

Office of Energy Research

Energy Research Advisory Board Educational Panel; Open Meeting

Notice is hereby given of the following meeting:

Name: Education Panel of the Energy Research Advisory Board (ERAB)

Date & Time: December 16-17, 1987, 8:30 a.m.-5:00 p.m.

Place: Battelle Memorial Institute, 2030 M Street, NW., Suite 800, Washington, DC 20036

Contact: William L. Woodard, Department of Energy, Office of Energy Research, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586-5767.

Purpose of the Parent Board: To advise the Department of Energy (DOE) on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Purpose of the Panel: The purpose of the Panel is to review DOE's activities with the education community to ensure that the Department is playing its proper role with other Federal agencies and the private sector in the support of scientific and technical education and training.

Tentative Agenda:

December 16, 1987

8:30 a.m. Panelists' Discussion of Meeting Plans
9:00 a.m. Department of Education
10:00 a.m. Council of State Science Supervisors
11:00 a.m. Open
12:00 Noon Lunch
12:30 p.m. Department of Energy's Follow-up of 1983 study, "An Assessment of the Relationship between the Department of Energy and Universities and Colleges"
1:30 p.m. Panel Discussion
4:50 p.m. Public Comment (10 minute rule)
5:00 p.m. Adjourn

December 17, 1987

8:30 a.m. Convene
9:00 a.m. Open
10:00 a.m. Science Service, Inc.
11:00 a.m. Brookhaven National Laboratory
12:00 Noon Lunch
12:30 p.m. Open
4:50 p.m. Public Comment (10 minute rule)
5:00 p.m. Adjourn

Public Participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact William Woodard at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes of the Meeting: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on November 19, 1987.

Charles E. Cathey,

Deputy Director, Science and Technology Affairs, Office of Energy Research.

[FR Doc. 87-27339 Filed 11-25-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER88-103-000 et al.]

Pacific Gas & Electric Co. et al.; Electric Rate and Corporate Regulation Filings

November 20, 1987.

Take notice that the following filings have been made with the Commission:

1. Pacific Gas & Electric Company

[Docket No. ER88-103-000]

Take notice that on November 16, 1987, Pacific Gas and Electric Company (PG&E) tendered for filing proposed reductions in rates due to the Tax Reform Act of 1986.

The reductions were made pursuant to § 35.27 of the Commission's Regulations, established in FERC Order No. 475. Reductions were made for the following FERC Rate Schedule Numbers:

FERC No. 53, City and County of San Francisco
FERC No. 72, Sierra Pacific Power Company
FERC No. 75, Calaveras Public Power Agency
FERC No. 76, Tuolumne Public Power Agency
FERC No. 82, Sacramento Municipal Utility District
FERC No. 84, Northern California Power Agency
FERC No. 88, Sacramento Municipal Utility District
FERC No. 89, Shasta Dam Public Utility District
FERC No. 91, Sacramento Municipal Utility District
FERC No. 91, Northern California Power Agency and City of Santa Clara
FERC No. 92, California Department of Water Resources
FERC No. 93, California Department of Water Resources
FERC No. 94, California Department of Water Resources
FERC No. 100, California Department of Water Resources
FERC No. R-1, City of Redding

Copies of this filing were served upon all that affected customers as well as the California Public Utilities Commission.

Comment date: December 7, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Public Service Company of Oklahoma

[Docket No. ER88-100-000]

Take notice that on November 13, 1987, Public Service Company of Oklahoma (PSO) tendered for filing, to become effective July 1, 1987, reduced rates for transmission service and for sales of supplemental capacity and energy to the Oklahoma Municipal Power Authority (OMPA). PSO seeks an effective date of July 1, 1987. The decreased rates reflect the impact of the lowered Federal coprorate income tax rate enacted by the Tax Reform Act of 1986. Had the proposed rate been in effect for the 12 months ended June 30, 1987, PSO would have collected approximately $451,500 less in revenues from OMPA in such period.

Comment date: December 7, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Yankee Atomic Electric Company

[Docket No. ER80-569-003]

Take notice that on October 27, 1987, Yankee Atomic Electric Company (Yankee) tendered for filing its response to a data request of the Commission's staff dated September 10, 1987. Yankee states that the response provides the information requested in support of the Refund Reports made by Yankee on June 24, 1987 and November 21, 1986, both filed in compliance with the Commission's letter order issued May 28, 1981 in ER80-569-000.

Comment date: December 7, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Pacific Power & Light Company, an assumed business name of PacifiCorp

[Docket No. ER88-104-000]

Take notice that on November 16, 1987, Pacific Power & Light Company, an assumed business name of PacifiCorp, tendered for filing, in accordance with § 35.30 of the Commission's Regulations, Pacific's Revised Appendix 1 for state of Washington and Bonneville Power Administration's (Bonneville) Determination of Average System Cost (ASC) for the state of Washington (Bonneville's Docket No. 5-A2-8701). The Revised Appendix 1 calculates the ASC for the state of Washington applicable to the exchange of power between Bonneville and Pacific.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective March 19, 1987, which it claims is the date of commencement of service.

Copies of the filing were supplied to Bonneville, the Washington Utilities and Transportation Commission and Bonneville's Direct Service Industrial Customers.

Comment date: December 7, 1987, in accordance with Standard Paragraph E at the end of this notice.

5. Northern States Power Company

[Docket No. ER88-102-000]

Take notice that on November 13, 1987, Northern States Power Company, a Wisconsin corporation (NSPW), tendered for filing a new wholesale electric service agreement, dated November 25, 1986, and Amendment No. 1 thereto dated June 17, 1987, between NSPW and the Village of Cadott, Wisconsin (Village). NSPW states that it currently serves the Village under a wholesale service agreement dated April 19, 1976, which agreement will be terminated upon the effective date of the November 25, 1986 agreement. NSPW further states that this filing does not propose any changes in rate currently in effect for NSPW's wholesale service to Village.

Finally, NSPW has requested that the new agreement, as amended, be permitted to become effective 60 days from the date on which the Commission received the new agreement for filing.

Comment date: December 7, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. Sierra Pacific Power Company

[Docket No. ER88-101-000]

Take notice that on November 13, 1987, Sierra Pacific Power Company (Sierra) of Reno, Nevada, tendered for filing rate reductions to its wholesale firm power and firm wheeling customers pursuant to Order No. 475 in Docket No. RM87-4-000, Rate Changes Relating to Corporate Income Tax Rates for Public Utilities. Pursuant to Order No. 475, Sierra requests July 1, 1987 as the effective date for the proposed rate reductions.

Comment date: December 7, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-27247 Filed 11-25-87; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3295-8]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICRs are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Carla Levesque at EPA, (202) 382–2740 (FTS 382–2740).

SUPPLEMENTARY INFORMATION:

Office of Policy, Planning and Evaluation

Title: Commercial Hazardous Waste Industry Survey. (EPA ICR # 1433).

Abstract: Selected Commercial hazardous waste firms provide information about their waste management activities, e.g., capacity to perform incineration, types of services they perform, areas of expansion and decline, etc. EPA uses these data to make regulatory decisions that promote the use of specific technologies.

Respondents: 18 Commercial Hazardous Waste Firms

Estimated Annual Burden: 180

Frequency of Collection: Annually.

* * * * *

Comments on the abstract on this notice may be sent to:

Carla Levesque, U.S. Environmental Protection Agency, Office of Standard and Regulations (PM–223), Information and Regulatory System Division, Information Policy Branch, 401 M Street SW., Washington, DC 20460

and

Nicolas Garcia, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3019), 726 Jackson Place NW., Washington, DC 20503.

Date: November 6, 1987.

Daniel J. Fiorino,

Director, Information Regulatory Systems Division.

[FR Doc. 87–27303 Filed 11–25–87; 8:45 am]

BILLING CODE 6560–50–M

[FRC–3296–1]

Science Advisory Board, Clean Air Scientific Advisory Committee; Open Meeting December 14–15, 1987

SUMMARY: Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, notice is hereby given of a public meeting of the Clean Air Scientific Advisory Committee (CASAC) of the Environmental Protection Agency's (EPA) Science Advisory Board. The meeting will be held December 14–15, 1987, from 9:00 a.m. to 5:00 p.m., at the Howard Johnson's National Airport Hotel, Dominion 1 Conference Room, 2650 Jefferson Davis Highway, Arlington, Virginia 22202.

Purpose: The purpose of this meeting is to allow the Committee to review and provide its advice to the Agency on the November 1987 draft staff paper for ozone (*Review of the National Ambient Air Quality Standards for Ozone: Preliminary Assessment of Scientific and Technical Information*), and its associated analyses. The purpose of the staff paper is to evaluate and interpret the most relevant scientific and technical information reviewed in the criteria document (last reviewed by CASAC in April 1986) in order to better specify the critical elements which the EPA staff believes should be considered in any possible revisions to the national ambient air quality standards (NAAQS) for ozone. This document is intended to help bridge the gap between the scientific review contained in the air quality criteria document for ozone and the judgments required of the Administrator in setting ambient standards for ozone. The Committee will consider presentations from Agency staff and the interested public prior to making recommendations to the Administrator.

The Committee will also receive an overview of recent ozone research, a status report on the schedules for upcoming criteria pollutant reviews, and an update on the Agency's response to the November 1985 CASAC report on the NAAQS process.

Copies of the November 1987 draft staff paper and its associated analyses are available from Dr. David McKee, U.S. EPA, Office of Air Quality Planning and Standards (OAQPS), MD–12, Research Triangle Park, North Carolina 27711. Commercial: (919) 541–5288; (FTS: 629–5288). Written comments on the draft staff paper will be accepted through February 15, 1988. Comments should be sent to Dr. McKee at the previous address.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning the meeting should contact Mr. Robert Flaak, Executive Secretary, Clean Air Scientific Advisory Committee (CASAC), Science Advisory Board (A–101–F), U.S. Environmental Protection Agency, Washington, DC 20460. Telephone (202) 382–2552; (FTS 383–2552). Persons wishing to make brief oral presentations at the meeting are reminded that availability of time for presentations will be limited due to the busy agenda. Such person *must* contact Mr. Flaak no later than the close of business on December 10, 1987 in order to reserve space on the agenda.

Terry F. Yosie,

Director, Science Advisory Board.

Date: November 18, 1987.

[FR Doc. 87–27304 Filed 11–25–87; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3296–2]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075. Availability of Environmental Impact Statements filed November 16, 1987 Through November 20, 1987 Pursuant to 40 CFR 1506.9.

EIS No. 870418, FSuppl, BLM, TX, All American Crude Oil Pipeline Project, Construction and Operation, Texas Extension, Due: December 28, 1987, Contact: William Haigh (714) 351–6428.

EIS No. 870419, Report, COE, OH, Logan Local Flood Protection Project, Implementation, Hocking County, Contact: John Wright (513) 684–6206.

EIS No. 870420, Final, COE, FL, Port Everglades Expansion, Construction and Fill Placement in the U.S. and Contiguous Wetlands, Broward County, Due: December 28, 1987, Contact: Dan Malanchuk (904) 791–1689.

EIS No. 870421, Final, BLM, CO, Glenwood Springs Resource Area, Wilderness Recommendations, Designation or Nondesignation, Due: December 28, 1987, Contact: James Owings (303) 945–2341.

EIS No. 870422, Final, FHW, FL, Northwest Hillsborough Expressway Construction, I–275 to FL–597/Dale Mabry Highway, Hillsborough County, Due: December 28, 1987, Contact: Dennis Luhrs (813) 874–3368.

EIS No. 870423, Draft, COE, ND, Souris Basin Flood Control Project, Storage of Floodwater in Saskatchewan and Construction of Compatible Lake

Darling Project Features, Souris River, Due: January 11, 1988, Contact: Charles Workman (612) 725–7745.

EIS No. 870424, Final, SFW, AK, Innoko National Wildlife Refuge, Comprehensive Conservation Management Plan, Wilderness Review, Due: December 28, 1987, Contact: William Knauer (907) 786–3399.

EIS No. 870425, Final, SFW, AK, Yukon Flats National Wildlife Refuge Comprehensive Conservation Plan, Wilderness Review, Due: December 28, 1987, Contact: William Knauer (907) 786–3399.

EIS No. 870426, Final, MMS, AK, 1988 Chukchi Sea Outer Continental Shelf (OCS) Oil and Gas Sale No. 109, Leasing, Due: December 28, 1987, Contact: Ray Emerson (907) 261–4080.

EIS No. 870427, Report, COE, PA, Grays Landing Lock and Dam Navigation Improvements, Updated Information, Monongahela River, Green and Fayette Counties, Contact: James Purdy (412) 644–6844.

Amended Notices:

EIS No. 870372, Final, COE, OH, Ashtabula Harbor Dredging and Confinement of Polluted Sediments, Ashtabula County, Due: December 4, 1987, Published FR 10–30–87—Review period extended.

EIS No. 870405, Draft, AFS, WA, OR, Umatilla National Forest, Land and Resource Management Plan, Due: February 26, 1988, Published FR 11–13–87—Review period refiled.

EIS No. 870406, Draft, AFS, OR, Fremont National Forest, Land and Resource Management Plan, Due: January 11, 1988, Published FR 11–13–87—Review period refiled.

Dated: November 24, 1987.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 87–27368 Filed 11–25–87; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3296–3]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared November 16, 1987 through November 20, 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 14, 1987 (52 FR 13749).

Draft EISs

ERP No. D–COE–E32066–GA, Rating 3, Savannah Harbor Comprehensive Study and Harbor Deepening, Implementation, Chatman County, GA.

Summary:

EPA has determined that the document does not adequately address potentially significant long-term environmental consequences of the channel deepening proposal. EPA has major reservations concerning the disposal of dredged material over the life of the project. A rating of 3 or "inadequate was assigned and it was suggested that the draft EIS be supplemented or revised to address these issues.

ERP No. D–FHW–F40293–IN, Rating E02, East Unit Access Road Construction, I–94 to US 12, US 12 Relocation, LaPorte/Porter County Line to US 12 Intersection near Sheridan Avenue, Funding, 404 Permit, Michigan City, Porter and LaPorte Counties, IN.

Summary:

EPA's objections to the document relate to potential impacts upon wetlands and the fact that all practicable alternatives were not assessed. EPA's major objection regards the direct project impacts upon wetlands and potential wetland impacts due to future secondary development the East Unit Access Road may encourage.

ERP No. D–IBR–J28016–UT, Rating E02, Weber Basin Project, Willard Reservoir Water Use Change, Irrigation to Municipal and Industrial Water Supply Conversion, Implementation, Davis and Weber Counties, UT.

Summary:

EPA's major concern is the resolution of apparent conflicts of some of the alternatives with the warm water aquatic life beneficial use established by State water qualifty life standards for the reservoir. Reconciliation of water quality needs and allocations was encouraged. Additional discussion of consequences to other water use organizations in the area was suggested.

Final EISs

ERP No. F–AFS–J82010–MT, Helena National Forest, Noxious Weed Control Program, Implementation, Broadwater, Lewis and Clark, Jefferson, Meagher and Powell Counties, MT.

Summary:

The document largely addressed the comments submitted on the draft EIS. EPA suggests participation by appropriate EPA and Department of Agriculture staff during the first annual review by the Helena National Forest's Integrated Pest Management Working Group.

ERP No. F–BLM–K61067–NV, Schell Resource Area, Wilderness Study Areas, Wilderness Recommendations, Designation, Ely District, Nye, White Pine and Lincoln Counties, NV.

Summary:

EPA supports BLM's decision to designate identified lands as part of the National Wilderness System.

ERP No. F1–BLM–K65070–NV, Shoshone-Eureka Area, Wilderness Recommendations, Designation or Nondesignation, Antelope, Roberts, and Simpson Park WSAs; Battle Mountain District, Nye, Lander and Eureka Counties, NV.

Summary:

EPA supports BLM's decision to designate the identified lands as part of the National Wilderness System.

ERP No. F1–BLM–L70000–00, Jarbidge Resource Area, Wilderness Study Areas, Wilderness Recommendations, Designation, Elmore and Owyhee Counties, ID.

Summary:

Review of the final EIS has been completed and the project found to be satisfactory.

ERP No. F–BLM–L70007–ID, Pocatello, Resource Area, Resource Management Plan, Implementation, Banncock, Bear Lake, Bingham, Bonneville, Caribou, Franklin and Power Counties, ID

Summary:

Review of the final EIS has been completed and the project found to be satisfactory.

ERP No. F–COE–D39022–WV, Kanawha River Navigation Study, Winfield Locks and Dam, Lock Replacement, Implementation, Putnam County, WV

Summary:

EPA finds that the document satisfactorily addressed most of the concerns presented in our draft EIS comments. EPA continues, however, to be concerned about the disposal of dioxin-contaminated sediment. EPA anticipates further involvement with the Huntington Corps of Engineers and the West Virginia Department of Natural

Resources in achieving a suitable resolution.

ERP No. F-ICC-D53006-00, Georgetown Subdivision (Docket No. AB-19) (Sub-No. 112) Rail Line Abandonment, Milepost 0.23 to Milepost 10.98, License, Montgomery County, MD and the District of Columbia.

Summary:

EPA has concluded its review of the final EIS and believes that there remain a number of issues which have not been fully addressed. EPA has requested further contact on surface water impacts, sediment control, and noise/air quality issues.

ERP No. F-MMS-L02014-AK, 1988 Beaufort Sea Outer Continental Shelf (OCS) Oil/Gas Sale No. 97, Lease Offering, Beaufort and Chukchi Seas, AK.

Summary:

EPA expressed environmental concerns with the proposed action. EPA's major concern involves the potential adverse effects on endangered bowhead whales resulting from the full scope of activities associated with leasing (exploration, development, and production). The Biological Opinion for this project indicated that there was a likelihood of jeopardy to the bowhead whale population from development and production activities. Recently completed industry-funded studies of the effects of drilling noise and support activities on migrating whale were not made available in the final EIS.

ERP No. F-NPS-K61086-CA, Sequoia-Kings Canyon National Parks, Grant Grove and Redwood Mountain Areas, Development and Use, Implementation, Fresno and Tulare Counties, CA.

Summary:

Review of the final EIS has been completed and the project found to be satisfactory.

ERP No. F-UMT-H54000-00, St. Louis Light Rail Transit Project, St. Louis Central/Airport Corridor Alternatives Analysis, Improvements, Major Transit Capital Investments, St. Louis County, MO and; East St. Louis and St. Clair Countie, IL.

Summary:

EPA's concerns with the draft EIS have been adequately addressed. EPA has no objections to implementation of the project as planned. (Note—This summary should have appeared in the 10-20-87 FR Notice.)

ERP No. FS-USA-G11010-00, Binary Chemical Munition Program, QL and DC Production Facilities, Site Selection, Operation and Construction, Vermillion County, IN, Colbert County, AL, Jefferson and Phillips Counties, AR, and Calcasieu County, LA.

Summary:

EPA believes the document satisfactorily addresses those areas within our jurisdiction and expertise.

Dated: November 23, 1987.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 27369 Filed 11-25-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee on Advanced Television Service; Meeting

1. The *Planning Subcommittee* of the Advisory Committee on Advanced Television Service will hold its first meeting on: December 4, 1987, 9:30 a.m., 1919 M Street, NW., Washington, DC 20554, Room 856.

2. The purpose of this meeting is to organize the structure and work of the Planning Subcommittee.

3. A summary of the agenda follows:

a. Introductory remarks
b. Administrative matters including procedural rules and organization
c. Objectives and workplan of Subcommittee
d. Scope and objectives of working parties
e. Preliminary discussion of elevation of advanced television systems
f. Other business
g. Date and location of next meeting

4. This meeting is open to the public.

5. Interested parties may submit written statements at the time of the meeting. Oral statements and discussion will be permitted under the direction of the Subcommittee Chairman.

6. The parent Advisory Committee is required to submit a major report to the Federal Communications Commission by May 17, 1988. To do that the Committee must perform extensive studies and analyses on the provision of television service in the United States and pending developments in technology. The work of the Planning Subcommittee will form a major and essential element of that effort. Because of the size of the task and the extremely short time frame within which the Committee has to act, we find it necessary to schedule the first meeting of the Planning Subcommittee with less than 15 days notice.

7. For further information please contact:

Chairman J.A. Flaherty, (212) 975-2213
Designated Federal Employee, William Hassinger, (202) 632-6460

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-27380 Filed 11-25-87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension of 3067-0181
Title: Survey of Contractor Responsibility
Abstract: The survey will be used to collect financial and historical information on prospective contractors. The information will enable FEMA's Contracting Officer to make a determination of responsibility in order to award mobile home set-up contracts during Presidentially declared disasters and emergencies
Type of Respondents: Businesses or other for-profit small businesses or organizations
Number of Respondents: 300
Burden Hours: 490
Frequency of Recordkeeping or Reporting: On occasion.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646-2624, 500 C. Street, SW., Washington, DC 20472.

Comments should be directed to Francine Picoult, (202) 395-7231, Office of Management and Budget, 3235 NEOB, Washington, DC 20503 within two weeks of this notice.

Date: November 23, 1987.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 87-27250 Filed 11-25-87; 8:45 am]

BILLING CODE 6718-21-M

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the

following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Revision of 3067–0146
Title: State Aministrative Plan for Individual and Family Grant Program
Abstract: The Governor is required by law to administer the Individual and Family Grant Program, and FEMA is required to publish regulations and procedures. FEMA carries out its roles by requiring a State plan be adopted to conform to the regulations while allowing individual State procedural variations.
Type of Respondents: State and local governments
Number of Respondents: 56
Burden Hours: 168
Frequency of Recordkeeping of Reporting: Annually; Other—when a disaster is declared.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646–2624, 500 C Street, SW., Washington, DC 20472.

Comments should be directed to Francine Picoult, (202) 395–7231, Office Management and Budget, 3235 NEOB, Washington, DC 20503 within two weeks of this notice.

Date: November 23, 1987.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 87–27251 Filed 11–25–87; 8:45 am]

BILLING CODE 6718–21–M

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: New Survey
Title: Temporary Housing Post-Assistance Survey
Abstract: Recipients of temporary housing assistance will complete the survey to document how monies received from FEMA are being used. FEMA will use this survey to evaluate whether it is effective in providing timely and adequate assistance to victims of Presidentially declared major disasters and emergencies; to determine if disaster victims' temporary housing needs are being met; and to identify disaster victims' needs for continuing rent assistance
Type of Respondents: Individuals or households
Number of Respondents: 6,000
Burden Hours: 1,000
Frequency of Recordkeeping or Reporting: On occasion.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646–2624, 500 C Street, SW., Washington, DC 20472.

Comments should be directed to Francine Picoult, (202) 395–7231, Office of Management and Budget, 3235 NEOB, Washington, DC 20503 within two weeks of this notice.

Date: November 23, 1987.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 87–27252 Filed 11–25–87; 8:45 am]

BILLING CODE 6718–21–M

FEDERAL MARITIME COMMISSION

Agreement Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–010901–001.
Title: Galveston Wharves Terminal Agreement.
Parties:

Board of Trustees of the Galveston Wharves
Del Monte Fresh Fruit Company

Synopsis: The proposed agreement modifies the volume incentive provisions of the basic agreement; adds reefer truck parking spaces and equipment to the agreement; and provides for two renewal periods of five years each.

By Order of the Federal Maritime Commission.

Dated: November 23, 1987.

Joseph C. Polking,

Secretary.

[FR Doc. 87–27314 Filed 11–25–87; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Pub. L. 92–463, the Annual Report for the following Health Resources and Service Administration Federal Advisory Committees have been filed with the Library of Congress:

National Advisory Council on Health Professions Education.

National Advisory Council on Nurse Training.

Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, DC, or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, HHS North Building, Room G–400, 330 Independence Avenue, SW., Washington, DC, telephone (202) 245–6791. Copies may be obtained from:

Mr. Robert Belsley, Executive Secretary, National Advisory Council on Health Professions Education, Room BC–22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6880.

Dr. Mary S. Hill, Executive Secretary, National Advisory Council on Nurse Training, Room 5C–14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6193.

Dated: November 23, 1987.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 87–27308 Filed 11–25–87; 8:45 am]

BILLING CODE 4160–15–M

Public Health Service

National Advisory Council on Health Care Technology Assessment, Criteria Subcommittee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory

Council scheduled to meet during the month of November 1987:

Name: National Advisory Council on Health Care Technology Assessment (Criteria Subcommittee).

Date and Time: November 30, 1987, 1987, 9:00 a.m. to 4:00 p.m.

Place: Georgetown Holiday Inn, Potomac Room, 2101 Wisconsin Avenue, Northwest, Washington, DC. Open November 30, 9:00 AM to 11:30 AM and 1:00 p.m. ot 4:00 p.m. Closed for remainder of meeting.

Purpose: The Council is charged to provide advice to the Secretary and to the Director of the National Center for Health Services Research and Health Care Technology Assessment (NCHSR) with respect to the performance of the health care technology assessment functions prescribed by section 305 of the Public Health Service Act, as amended. This Subcommittee is charged with developing recommended criteria to be used by the NCHSR in conducting technology assessments.

Agenda: The open sessions of the meeting on November 30 from 9:00 AM to 11:30 AM and from 1:00 PM to 4:00 PM will be devoted to discussion of a proposed system for classifying the nature of the information used to assess health care technologies and the testing of this system, using assessments completed by NCHSR's Office of Health Technology Assessment.

The closed session of the meeting will involve discussion with the Office of General Counsel, DHHS, concerning conflict of interest laws and regulations as they pertain to the activities of Council members. This may involve discussion of personal and confidential information pertaining to individual Council members which is exempt from disclosure under 5 U.S.C. 552(b), 5 U.S.C., App. 2 section 10 (b) and (d), and 5 U.S.C. 552(c) (2) and (9).

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Mrs. Kelly Fennington, National Center for Health Services Research and Health Care Technology Assessment, Room 1805, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone (301) 443–5650.

Agenda items are subject to change as priorities dictate.

Date: November 16, 1987.

J. Michael Fitzmaurice,

Director, National Center for Health Services Research and Health Care Technology Assessment.

[FR Doc. 87–27254 Filed 11–25–87; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–967–4213–15; AA–6979–D]

Alaska Native Claims Selection; Shaan-Seet Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 16(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1615(b), will be isued to Shaan-Seet Incorporated for approximately 2,436 acres. The lands involved are in the vicinity of Craig, Alaska.

Copper River Meridian, Alaska

T. 74 S., R. 80 E.,
T. 74 S., R. 82 E.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the *Juneau Empire.* Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal Government or regional corporation, shall have until December 28, 1987 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirement of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Terry R. Hassett,

Chief, Branch of KCS Adjudication.

[FR Doc. 87–27225 Filed 11–25–87; 8:45 am]

BILLING CODE 4310–JA–M

[CO–070–08–4432–09; FES 87–57]

Availability of Final Wilderness Environmental Impact Statement for Glenwood Springs Resource Area; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of Final Environmental Impact Statement (EIS) on the Wilderness Recommendations for the Glenwood Springs Resource Area, Grand Junction District, Colorado.

SUMMARY: This EIS assesses the environmental consequences of managing four Wilderness Study Areas (WSAs) as wilderness or non-wilderness. The alternatives analyzed included: (1) A No Wilderness/No Action Alternative for each WSA, (2) an All Wilderness Alternative for each WSA, and (3) a Partial Wilderness Alternative for the Bull Gulch WSA.

The names of the WSAs analyzed in the EIS, their total acreage, and the proposed action for each are as follows:

Wilderness study areas	Nonsuitable acres	Suitable acres BLM
Eagle Mountain [1] (CO–070–392)	0	330
Hack Lake [2] (CO–070–425)	0	10
Bull Gulch (CO–070–430)	4,586	10,414
Castle Peak (CO–070–433)	11,940	0
Total	16,526	10,754

[1] Contiguous to the Maroon Bells-Snowmass Wilderness administered by the U.S. Forest Service.

[2] Contiguous to the Flat Tops Wilderness administered by the U.S. Forest Service.

The Bureau of Land Management wilderness proposals will ultimately be forwarded by the Secretary of the Interior to the President and from the President to the Congress. The final decision on wilderness designation rests with Congress. In any case, no final decision on these proposals can be made by the Secretary during the 30 days following the filing of this EIS. This complies with the Council on Environmental Quality Regulations, 40 CFR 1506.10B(2).

SUPPLEMENTARY INFORMATION: A limited number of individual copies of the EIS may be obtained from the Area Manager, Glenwood Springs Resource Area P.O. Box 1009, Gleenwood Springs, Colorado 81602.

Copies are also available for inspection at the following locations:

Department of the Interior, Bureau of Land Management, 18th & C Street NW., Washington, DC 20240

Bureau of Land Management, Colorado State Office, 2850 Youngfield Street, Lakewood, CO 80215

Bureau of Land Management, Grand Junction District, 764 Horizon Drive, Grand Junction, CO 81506.

FOR FURTHER INFORMATION CONTACT: Bruce Conrad, District Manager, Grand Junction District, 764 Horizon Drive, Grand Junction, Colorado 81506.

Date: November 19, 1987.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 87-27038 Filed 11-25-87; 8:45 am]

BILLING CODE 4310-JB-M

[UT-920-08-4121-10]

Utah and Colorado; Availability of Draft Adequacy Standards for the Uinta-Southwestern Utah Coal Region

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice.

SUMMARY: Pursuant to a decision by the Secretary of Interior that provides for development of regional coal leasing Data Adequacy Standards, the Uinta-Southwestern Utah coal Region has developed Draft Data Adequacy Standards. The Draft Data Adequacy Standards are available to the public and interested parties by contacting the BLM State Directors in either Utah or Colorado.

In addition, notice is given that comments on these draft standards to be used in considering future Federal coal leasing will be taken by the respective BLM State Directors in Utah or Colorado.

DATES: Written comments on the Draft Data Adequacy Standards will be received through December 31, 1987.

ADDRESSES: Written comments on the Draft Data Adequacy Standards are to be addressed to and copies of the document may be obtained from the Utah State Director, Bureau of Land Management, Utah State Office, 324 South State Street, Suite 301, Salt Lake City, Utah 84111-2303 or Colorado State Director, Bureau of Land Management, Colorado State Office, 2020 Arapahoe Street, Denver, Colorado 80206.

SUPPLEMENTARY INFORMATION: The BLM and Uinta-Southwest Utah Regional Coal Team will use the Data Adequacy Standards to help assure that Federal coal leasing decisions and recommendations have a solid data foundation to make decisions on whether or not to offer a delineated coal tract for leasing, determination on the fair market value for a given coal tract, determination of the specific lease stipulations for a given coal tract.

Kemp Conn,

Acting State Director, Utah.

Date: November 18, 1987.

[FR Doc. 87-27226 Filed 11-25-87; 8:45 am]

BILLING CODE 4310-DQ-M

[NM-040-08-4133-11; OK NM 67909]

Intent for Nerco Project; Kiowa County, OK

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare a planning analysis/environmental assessment.

SUMMARY: The Oklahoma Resource Area of the Bureau of Land Management's Tulsa District is preparing a Planning Analysis in response to an application for a prospecting permit filed pursuant to regulations contained in Title 43 Code of Federal Regulations (CFR) Part 3500. CFR 3562.1 entitles the holder of a prospecting permit to a preference right lease if a valuable deposit of any mineral is discovered, therefore the analysis will also address mineral development. The area involved contains all of the land and interests in land acquired by the Department of the Interior, Bureau of Reclamation, for the Mountain Park Project in Kiowa County, Oklahoma. The Bureau is preparing the analysis under provisions of the Mineral Leasing Act for Acquired Lands of August 7, 1947 (30 U.S.C. 351-359), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, *et seq.*). The Planning Analysis will be prepared by an interdisciplinary team consisting of a team leader, wildlife biologist, technical information specialist, archaeologist, and mining engineer. Participation in the planning process has been solicited from other Federal, State, and local governments. Public participation in the planning process is requested. Please address the following: (1) Issues of real or potential concern. (2) Conflicts with existing or proposed land use(s) or development plans. Maps showing the location of the subject land; copies of the proposed exploration plan and plan of operation; a description of the existing environment can be reviewed at the address below. A draft and final planning analysis will be published and a public meeting to solicit comments on the draft analysis is tentatively scheduled for April 1988.

FOR FURTHER INFORMATION CONTACT: Barron Bail, Oklahoma Resource Area Headquarters, 200 NW. Fifth Street, Room 548, Oklahoma City, OK 73102, Telephone (405) 231-5491.

Dated: November 23, 1987.

Joseph J. Incardine,

Acting District Manager.

[FR Doc. 87-27227 Filed 11-25-87; 8:45 am]

BILLING CODE 4310-FB-M

Idaho Falls District Office; Restricted Vehicle Use Closure Order

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Restricted vehicle use; closure order.

SUMMARY: Notice is hereby given in accordance with Title 43 CFR Group 8000—Recreation Programs, and in accordance with the principles established by the National Environmental Policy Act of 1969 and the Federal Land Policy and Management Act of 1976, that certain lands located in the Juniper Mountain Sand Dunes area of Fremont, Madison and Jefferson Counties, Idaho, are closed to all motorized vehicles between December 1 and March 31 of each year.

Extensive studies by the Bureau of Land Mangement and the Idaho Department of Fish and Game have determined that the area included in this notice is a major wintering area for elk, moose, deer, sage grouse and sharptail grouse. The presence of motorized vehicles within this wildlife winter range has been found to have a definite adverse effect on this wildlife resource.

A closure to motorized vehicles in this area was put into effect on Nov. 24, 1976 (FR Vol. 41, No. 236—Tuesday, Dec. 7, 1976). That closure was effective between December 15 and March 15 of each year and applied to about 18,700 acres of public land administered by BLM. Following more detailed studies and completion of a Resource Management Plan (RMP) in 1985, the effective time period needed for adequate protection of wildlife habitat is Dec. 1 to Mar. 31 of each year. The RMP designated the Nine Mile Knoll Area of Critical Environmental Concern, which includes about 31,000 acres of public land administered by BLM.

The Egin-Hamer Plan Amendment and Final Environmental Impact Statement was completed and distributed February, 1987 and a Record of Decision issued September 21, 1987. That decision amended the Medicine Lodge RMP and, among other things, enlarged the Nine Mile Knoll ACEC from 31,600 acres to 40,090 acres and stated the Egin-Hamer road would be closed from December 1 to March 31 of each year.

The motor vehicle closure order applies to approximately 35,000 acres of public land west of St. Anthony, Idaho in and around the area know as the Juniper Mountain Sand Dunes. The parcels affected by this closure order are located within the following described public lands.

The legal description of this area is:

Boise Meridian

T. 6 N., R. 38 E.,
Sec. 5, lots 3 and 4.
T. 7 N., R. 37 E.,
Sec. 1, lots 1 and 2, S1/2NE¼, SE¼;
Sec. 12, E½;
Sec. 13, all;
Sec. 23, NE¼, NE¼NW¼;
Sec. 24, all;
Sec. 25, NE¼, NE¼NW1/4, N½SE¼, SE¼SE¼.
T. 7 N., R. 38 E.,
Sec. 1, lots 1–4 incl., S1/2N½, S½;
Sec. 2, lots 1–4 incl., S½N½, S½;
Sec. 3, lots 1–4 incl., S½N½, S½;
Sec. 4, lots 1–4 incl., S½N½, S½;
Sec. 5, lots 1–4 incl., S½N½, S½;
Sec. 6, lots 6 and 7, E½SW¼, SE¼;
Sec. 7, lots 1–4 incl., E½, E1/2W½;
Sec. 8, all;
Sec. 9, all;
Sec. 10, all;
Sec. 11, all;
Sec. 12, all;
Sec. 13, all;
Sec. 14, all;
Sec. 15, all;
Sec. 16, all;
Sec. 17, all;
Sec. 18, lots 1–4 incl., E½, E½W½;
Sec. 19, lots 1–4 incl., E½, E½W½;
Sec. 20, all;
Sec. 21, N½NE¼, SE¼NE¼,N½NW¼;
Sec. 22, all;
Sec. 23, all;
Sec. 24, N½, NE¼SW¼, NE¼SE¼, N½SW¼SE¼;
Sec. 25, S½NW¼NE¼, S½NE¼, NW¼NW¼, S½NW¼, S½;
Sec. 26, all;
Sec. 27, all;
Sec. 29, N½;
Sec. 30, lots 1–4 incl., E½, E½W½;
Sec. 31, lots 1 and 7, NE¼, E½NW¼, N½SE¼.
T. 7 N., R. 39 E.,
Sec. 6, lots 1–7 incl., S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1–4 incl., E½, E½W½;
Sec. 18, lots 1–4 incl., NW¼NE¼, E½W½;
Sec. 19, lots 1 and 2, NE¼NW¼.
T. 8 N., R. 38 E.,
Sec. 12, SE¼;
Sec. 13, E½;
Sec. 23, NE¼, S½;
Sec. 24, all;
Sec. 25, all;
Sec. 26, all;
Sec. 27, NE¼, S½;
Sec. 28, E½SE¼;
Sec. 31, S½SE¼;
Sec. 32, SW¼;
Sec. 33, NE¼, S½NW¼, S½;
Sec. 35, all.
T. 8 N., R. 39 E.,
Sec. 3, lots 3 and 4, S½NW¼, W½SW¼;
Sec. 4, lots 1–4 incl., S½N½, S½;
Sec. 5, lots 1–4 incl., S½N½, S½;
Sec. 6, lots 1–7 incl., S½NE¼, SE¼NW¼, W½SW¼, SE¼;
Sec. 7, lots 1 and 2, NE¼, E½NW¼;
Sec. 8, N½, N½S½, S½SW¼, SW¼SE¼;
Sec. 9, NW¼NE¼, N½NW¼;
Sec. 13, S½SE¼;
Sec. 17, N½NW¼, SW¼NW¼;
Sec. 18, lots 3 and 4, E½, NE¼NW¼, E½SW¼;
Sec. 19, lots 1–4 incl., E½, E½W½;
Sec. 20, NW¼NW¼, W½SW¼, SE¼SW¼;
Sec. 26, N½, SW¼;
Sec. 27, NE¼, E1/2NW¼, SW¼;
Sec. 28, SW¼NW¼, S½;
Sec. 29, S½NE¼,W½, W½SE¼;
Sec. 30, lots 1–4 incl., E½, E½W½;
Sec. 31, lots 1–4 incl., E½, E½W½;
T. 9 N., R. 39 E.,
Sec. 31, Lot 4, SE¼NE¼, SE¼;
Sec. 32, S½N½, SW¼, NW¼SE¼;
Sec. 33, S½SE¼;
Sec. 34, S½SW¼.

Containing 35,026 acres, more or less.

The offical map of the above described land is on file at the Bureau of Land Management District Office, 940 Lincoln Rd., Idaho Falls, ID. Copies of the map have been made available locally.

EFFECTIVE DATE: This closure order shall be effective form December 1 to March 31 of each year.

FOR FURTHER INFORMATION CONTACT: Lloyd H Ferguson, District Manager, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401, (208) 529–1020.

Lloyd H. Ferguson,

District Manager.

November 17, 1987.

[FR Doc. 87–27228 Filed 11–25–87; 8:45 am]

BILLING CODE 4310-GG-M

[CA–940–08–4111–15; CA 17336]

California; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Pub. L. 97–451, a petition for reinstatement of oil and gas lease CA 17336 for lands in Kern County, California, was timely filed and was accompanied by all required rentals and royalties accruing from August 1, 1987, the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms and rental at the rate of $10.00 per acre or fraction thereof and royalty at a rate of not less then 16⅔ percent, computed on a sliding scale 4 percentage points greater than the competitive royalty schedule in the original lease. Payment of a $500.00 administrative fee has been made.

Having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease effective August 1, 1987, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above, and the reimbursement for cost of publication of this notice.

Date: November 19, 1987.

Kurt T. Mueller,

Acting Chief, Leasable Minerals Section Branch of Adjudication and Records.

[FR Doc. 87–27229 Filed 11–25–87; 8:45 am]

BILLING CODE 4310-40-M

Proposed Reinstatement of Terminated Oil and Gas Lease; Utah

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97.451), a petition for reinstatement of oil and gas lease U–46701 for lands in Uintah County, Utah, was timely filed and required rentals and royalties accuring from March 1, 1987, the date of termination, have been paid.

The lessee has agreed to new lease terms for rentals and royalties at rates of $7 per acre and 16-⅔ percent, respectively. The $500 administrative fee has been paid and the lessee has reimbursed the Bureau of Land Management for the cost of publishing this notice.

Having met all the requirements for reinstatement of the lease U–46701 as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective March 1, 1987, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87–27295 Filed 11–25–87; 8:45 am]

BILLING CODE 4310-DQ-M

[AZ 020 08 4212 11; A 22563]

Realty Action; Recreation and Public Purposes (R&PP) Act Classification; Arizona

BLM proposes to study the compatability of appliations by Maricopa County and the Ocotillo Botanical Preservation and Hiking Club, Inc. to develop public land for recreation and educational purposes related to parks, hiking trails and native plant interpretation. A determination will be made to lease and/or patent the following described land:

Gila and Salt River Meridian, Arizona

T. 3 S., R. 7E.,
Sec. 33, N½NE¼, NW¼NW¼, W½SW¼, SE¼SW¼;
Sec. 34, NE¼, N½NW¼, SE¼NW¼, N½SE¼, SE¼SE¼;
Sec. 35, All;
Sec. 36, Lots 7–12, SW¼.

Containing 1,700.37 acres, more or less.

The land has been examined and found suitable for classification for recreation and public purposes under the provisions of the R&PP Act of June 14, 1926, as amended (44 Stat. 741; 43 U.S.C. 869; 869–4) and the regulations contained in 43 CFR Part 2740 and 43 CFR Part 2912.

In addition, the lands are determined to meet general classification criteria of 43 CFR 2410.1(a-d) and specific public purposes classification criteria of 43 CFR 2430.4(c).

Classification of this land under the provisions of the above cited R&PP Act segregates them from appropriations under the public lands laws, and the mining laws, but not from applications under the mineral leasing laws or the R&PP Act for a period of eighteen months from the date this notice is published in the **Federal Register** (43 CFR 2741.5(2)).

Detailed information concerning this classification is available from the Phoenix District Office, Bureau of Land Management, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

For a period of 45 days from the date of publication of this notice in the **Federal Register** interested parties may submit comments to the Phoenix District Manager.

Henri R. Bisson,

District Manager.

Date: November 18, 1987.

[FR Doc. 87–27230 Filed 11–25–87;8:45am]

BILLING CODE 4310–32–M

[AZ–020–08–4212–13; A–23085]

Realty Action; Exchange of Public Lands, Maricopa County, AZ

The folowing described federal lands are being considered for disposal by exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian, Arizona

T. 6 N., R. 2 W.,
Sec. 4, Lots 1–4, S½N½, S½;
Sec. 5, Lots 1–4, S½N½, S½;
Sec. 6, Lots 1–7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, Lots 1–4, E½W½, E½;
Sec. 8, All;
Sec. 9, All;
Sec. 17, All;
Sec. 18, Lots 1–4, W½NE¼, SE¼NE¼, E½NW¼, E½SE¼.

Total acres 4,878.43

Final determination on disposal will await completion of an environmental analysis.

In accordance with the regulations of 43 CFR 2201.1 (b), publication of this Notice will segregate the affected public lands from appropriation under the public land laws, incuding the mining laws, subject to valid existing rights, but not the mineral leasing laws or from exchange pursuant to Federal Land Policy and Management Act of 1976.

The segregation of the above-described lands shall terminate upon issuance of a document conveying such lands or upon publication in the **Federal Register** of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

For a period of forty-five (45) days, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Henri B. Bisson,

District Manager.

Dated: November 18, 1987.

[FR Doc. 87–27231 Filed 11–25–87; 8:45 am]

BILLING CODE 4310–32–M

[OR–943–08–4520–12: GP8–026]

Filing of Plats of Survey; Oregon/ Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands have been officially filed in the Oregon State Office, Portland, Oregon on the dates hereinafter stated:.

Willamette meridian

Oregon

T. 31 S., R. 7 W.
T. 17 S., R. 31 E.

The above listed plats were accepted July 24, 1987 and officially filed August 4, 1987.

T. 10 S., R. 8 W.
T. 29 S., R. 14 E.

The above listed plats were accepted July 24, 1987 and officially filed August 4, 1987.

T. 34 S., R. 1 W.

The above listed plat was accepted August 7, 1987 and officially filed August 18, 1987.

T. 33 S., R. 14 W.
T. 34 S., R. 14 W.

The above listed plats were accepted August 14, 1987 and officially filed August 18, 1987.

T. 30 S., R. 11 W.
T. 35 S., R. 1 E.

The above listed plats were accepted August 21, 1987 and officially filed August 21, 1987.

T. 13 S., R. 6 W.
T. 3 S., R. 8 W.

The above listed plats were accepted August 28, 1987 and officially filed September 10, 1987.

T. 31 S., R. 6 W.
T. 30 S., R. 8 W.
T. 10 S., R. 1 E.
T. 15 S., R. 12 E.

The above listed plats were accepted September 4, 1987 and officially filed September 10, 1987.

T. 32 S., R. 1 W.
T. 31 S., R. 4 W.

The above listed plats were accepted September 25, 1987 and officially filed October 7, 1987.

T. 24 S., R. 8 W.

The above listed plat was accepted October 2, 1987 and officially filed October 7, 1987.

Washington

T. 38 N., R. 39 E.
T. 40 N., R. 41 E.

The above listed supplemental plats were accepted July 31, 1987 and officially filed August 4, 1987.

T. 30 N., R. 4 E.
T. 29 N., R. 23 E.

The above listed plats were accepted August 7, 1987 and officially filed August 7, 1987.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 825 NE. Multnomah Street, P.O. Box 2965, Portland, Oregon 97208.

B. LaVelle Black,

Chief, Branch of Lands and Minerals Operations.

Dated: November 16, 1987.

[FR Doc. 87–27232 Filed 11–25–87; 8:45 am]

BILLING CODE 4310–33–M

[OR–943–08–4220–11; GP–08–027; OR–43287(WASH)]

Proposed Continuation of Withdrawal; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The National Park Service proposes that a portion of an existing withdrawal be transferred to the National Park Service; that the withdrawal continue for an indefinite period; and requests that the land remain closed to surface entry and mining. The land has been and would remain open to mineral leasing subject to National Park Service concurrence.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503–231–6905.

SUPPLEMENTARY INFORMATION: National Park Service proposes that the Secretarial Order of June 26, 1940, which withdrew certain lands for the Bureau of Reclamation for use in connection with

the Columbia Basin Project, be transferred to the National Park Service and continue for an indefinite period pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land involved is located in sec. 20, T. 28 N., R. 36 E., W.M., and contains 40.38 acres in Lincoln County, Washington.

If approved, the purpose of the withdrawal would be changed to protect the Fort Spokane National Historic Site and the land would be formally included in the Coulee Dam National Recreation Area. The withdrawal currently segregates the land from operation of the public land laws generally, including the mining laws but not the mineral leasing laws. The National Park Service requests no changes in the segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and their resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

B. Lavelle Black,

Chief, Branch of Lands and Minerals Operations.

Dated: November 17, 1987.

[FR Doc. 87-27233 Filed 11-25-87; 8:45 am]

BILLING CODE 4310-33-M

Minerals Management Service

Development Operations Coordination Document; Amoco Production Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Amoco Production Company has submitted a DOCD describing the activities it proposes to conduct on Leases OCS-G 5605 and 4828, Blocks 149 and 160, respectively, South Timbalier Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Fourchon City, Louisiana.

DATE: The subject DOCD was deemed submitted on November 16, 1987. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: November 18, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-27234 Filed 11-25-87; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Elf Aquitaine Petroleum

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Elf Aquitaine Petroleum has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 1996, Block 146, West Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on November 16, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: November 18, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-27235 Filed 11-25-87; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Kerr-McGee Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Kerr-McGee Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 5530, Block 26, Ship Shoal Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on November 13, 1987. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: November 18, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-27236 Filed 11-25-87; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Mobil Exploration & Producing U.S. Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Mobil Exploration & Producing U.S. Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 079, Block 46, portion, Vermilion Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on November 16, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: November 18, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-27237 Filed 11-25-87; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; ODECO Oil & Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that ODECO Oil & Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 8749, Block 106, Main Pass Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Venice, Louisiana.

DATE: The subject DOCD was deemed submitted on November 18, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is

considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: November 19, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-27238 11-25-87; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA-603-10]

Industrial Forklift Trucks

AGENCY: International Trade Commission.

ACTION: Termination of a preliminary investigation under section 603(a) of the Trade Act of 1974 (19 U.S.C. 2482(a)).

SUMMARY: The Commission has completed a preliminary investigation under section 603(a) of the Trade Act of 1974 for the purpose of gathering information relevant to the question of whether certain firms supporting a petition for relief filed under section 201 of the Trade Act of 1974 (19 U.S.C. 2251) with respect to imports of certain industrial forklift trucks are "representative on an industry" within the meaning of section 201(a)(1) of the Trade Act.

Upon examination of the information developed during this investigation, the Commission finds that the supporting firms would have standing to file a petition for an investigation of the scope proposed in the original petition. This conclusion addresses only the question of whether certain firms are "representative of an industry" within the meaning of section 201(a)(1) and should not be considered to indicate how the Commission would define the term "industry" in making a determination under section 201(b)(1) of the Trade Act if an investigation were instituted.

EFFECTIVE DATE: November 20, 1987.

FOR FURTHER INFORMATION CONTACT: Lawrence Rausch (202-523-0300), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-523-0161.

SUPPLEMENTARY INFORMATION:

Background

On June 5, 1987, Yale Materials Handling Corporation ("Yale") filed a petition under section 201 of the Trade Act of 1974 seeking relief in the form of import restrictions with respect to imports of certain industrial forklift trucks. Several domestic producers of such trucks filed letters supporting Yale's petition, but several others indicated opposition, and others did not indicate either support for or opposition to the petition.

In view of this information and certain other information furnished by the petitioner and other interested parties, the Commission, on July 1, 1987, rejected the petition as not providing a sufficient basis for determining that petitioner and supporting producers were "representative of an industry" within the meaning of section 201(a)(1) of the Trade Act of 1975 (the "1974 Act"). At the same time, the Commission determined that it would institute a preliminary investigation under section 603(a)) of the 1974 Act [1] in order to gather additional information relevant to the question of whether the firms supporting the petition are "representative of an industry." The Commission stated further that it would announce at the conclusion of its investigation what, if any, additional action it would take on this matter. The Commission scheduled a hearing for September 2, 1987, as part of its investigation. 52 FR 28356 (July 29, 1987).

On September 1, 1987, the Commission, in response to a request from Clark Equipment Company ("Clark"), which was supported by certain other parties to the investigation, including Yale, agreed to postpone the hearing for a nonrenewable period of 45 days. 52 FR 36642 (Sept. 30, 1987). On October 22, 1987, the Commission held a hearing in connection with the investigation. All interested parties were given an opportunity to appear. By that time, of those U.S. firms that were identified by the Commission staff as being "potential producers of industrial lift trucks," six—Yale, A.C. Material Handling Corporation, Crown Controls Corporation, Taylor Machine Works, Inc., the Elwell-Parker Electric Company and White Lift Trucks Parts & Manufacturing Co., Inc.—had stated that they were in support of the petition, three—Clark, Caterpillar Industrial Inc. and Baker Material Handling Corporation—were opposed, and the remaining firms had indicated neither support for nor opposition to the petition.

In this investigation, the Commission obtained additional information relating to several aspects of production of industrial forklift trucks in the United States, including U.S. producer facilities, investment in property, plant and equipment and capital expenditures, U.S. production by unit, by value-added in the United States and at U.S. facilities of forklift truck producers, U.S. employment, U.S. shipments, and U.S. producers' end-of-period producers.

Based on a consideration of the information received with respect to these factors as of October 30, 1987, and the stated positions of firms producing industrial forklift trucks with respect to the petition, the Commission concludes that Yale and the firms supporting the petition are representative of a domestic industry producing industrial forklift trucks within the meaning of section 201(a)(1) of the 1974 Act and they would have standing to file a petition for an investigation of the scope proposed in the original petition. However, Chairman Liebeler, Vice Chairman Brunsdale, and Commissioner Rohr believe that the case for finding petitioners representative of an industry for the purpose of a petition of such scope is close, and they are of the view that an increase in opposition to the petition could make petitioners unrepresentative of an industry within the meaning of section 201(a)(1).

Authority

This preliminary investigation is being terminated pursuant to section 603(a) of the trade Act of 1974 (19 U.S.C. 2482(a)) and § 201.7 of the Commission's rules or practice and procedure (19 CFR 201.7). This notice is published pursuant to § 201.10 of the Commission's rules (19 CFR 201.10).

By order of the Commission.

[1] Section 603 of the 1974 Act, 19 U.S.C. 2482, provides that the Commission may, "[i]n order to expedite the performance of its functions under this chapter * * * conduct preliminary investigations, determine the scope and manner of its proceedings, and consolidate proceedings before it." Section 603 further provides that "[i]n performing its functions under this chapter, the Commission may exercise any authority granted to it under any other Act."

Issued: November 23, 1987.

Kenneth R. Mason,

Secretary.

[FR Doc. 87-27224 Filed 11-25-87; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

A. 1. Parent corporation and address of principal office: The Curtis Publishing Company, 1000 Waterway Blvd., Indianapolis, IN 46202.

B. 2. Wholly-owned subsidiaries which will participate in the operations and State of Incorporation:

(i) U.S. Rubber Reclaiming, Inc.—Indiana

(ii) SerVaas Rubber Canada, Inc.—Ontario, Canada

1. Parent corporation and address of principal office: The Kroger Co., 1014 Vine Street, Cincinnati, OH 45202-1119.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

I. Agri-Products, Inc., OH
II. Bluefield Beverage Company, OH
III. City Markets, Inc., CO
IV. Country Oven, Inc., OH
V. Delight Products Company, OH
VI. Delight Distributing & Sales Co., Inc., LA
VII. Dillon Companies, Inc., KS
VIII. Farmer's Market Warehouse Store, Inc., OH
IX. Farmland Industries, Inc., PA
X. Fry's Food Stores, Inc., CA
XI. Fry's Food Stores of Arizona, Inc., CA
XII. Gateway Freightline, Inc., OH
XIII. Jackson Ice Cream Co., Inc., KS
XIV. Junior Food Stores of West Florida, Inc., FL
XV. Kwik Shop, Inc., KS
XVI. L.R.C. Truck Line, Inc., OH
XVII. M & M Super Markets, Inc., GA
XIII. Martec Corporation, CO
XIX. Mini Mart, Inc., WY
XX. Pace Dairy Foods Company, OH
XXI. Peyton's, Inc., KY
XXII. Peyton's Northern Distribution Center, Inc., IN
XXIII. Peyton's Southeastern, Inc., TN
XXIV. Pontiac Foods, Inc., SC
XXV. Price Savers Wholesale, Inc., WA
XXVI. Quick Stop Markets, Inc., CA
XXVII. Southern Ice Cream Specialties, Inc., OH
XXVIII. Time Saver Stores, Inc., KS
XXIX. Turkey Hill Dairy, Inc., PA
XXX. Vandervoort Dairy Foods Company, OH
XXXI. Welcome, Inc., OH
XXXII. Wesco Foods Company, OH

Noreta R. McGee,

Secretary.

[FR Doc. 87-27287 Filed 11-25-87; 8:45 am]

BILLING CODE 7035-01-M

Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent Corporation and address of principal office. Fleming Companies, Inc., 6301 Waterford Blvd., Oklahoma City, Oklahoma 73126.

2. Wholly-owned subsidiaries and divisions which will participate in the operations, and addresses of their respective principal offices and their state of incorporation:

Principal offices	State of incorporation
(A) Fleming Companies, Inc., 4725 N. W. Highway 24, Topeka, KS 66618.	Oklahoma.
(B) Fleming Companies, Inc., 3600 North Santa Fe, Wichita, KS 67219.	Oklahoma.
(C) The Fleming Co., of Nebraska, Inc., 1601 Pioneer Boulevard, P.O. Box 82809, Lincoln, Nebraska 65801.	Nebraska.
(D) Fleming Foods of Missouri, Inc., 3001 Davis Boulevard, P.O. Box 730, Joplin, Missouri 64801.	Missouri.
(E) Fleming Companies, Inc., 1100 Atlantic Avenue, Kansas City, Missouri 64116.	Oklahoma.
(F) General Merchandise Distributors, Inc., 7215 S. Topeka Boulevard, P.O. Box 1817, Topeka, Kansas 66601.	Kansas.
(G) Fleming Foods of Texas, Inc., 4300 Industry Park Drive, San Antonio, Texas 78233.	Texas.
(H) Fleming Foods of Texas, Inc., 2525 Minimax Drive, Houston, Texas 77001.	Texas.
(I) Fleming Companies, Inc., 10 East Memorial Road, Oklahoma City, Oklahoma 73114.	Oklahoma.
(J) Fleming Foods of Texas, Inc., 7301 Trinity Boulevard, Fort Worth, Texas 76118.	Texas.
(K) Fleming Foods of Texas, Inc., 408 East 50th, Lubbock, Texas 79404.	Texas.
(L) Fleming Foods of Texas, Inc., A. K. A. GMD, 3400 Dan Morton Drive, Dallas, Texas 75211.	Texas.
(M) Fleming Foods of Alabama, Inc., 1015 West Magnolia Avenue, Geneva, Alabama 36340.	Alabama.
(N) Fleming Foods of Georgia, Inc., 1801 Victory Drive, Columbus, Georgia 31995.	Georgia.
(O) Fleming Foods of Virginia, Inc., 700 Bath Avenue, P.O. Box 1207, Waynesboro, Virginia 22980.	Virginia.
(P) Fleming Foods of Tennessee, Inc., 3300 Buffalo Road, P.O. Box 29, Johnson City, Tennessee 37601.	Tennessee.
(Q) Fleming Foods of Pennsylvania, Inc., Greentree & Egypt Roads, P.O. Box 935, Oaks, Pennsylvania 19456.	Pennsylvania.
(R) Frankford-Quaker Grocery Co., I Street & Erie Avenue, Philadelphia, Pennsylvania 19124.	Pennsylvania.
(S) Royal Food Distributors, Inc., 215 Blair Road, Woodbridge, New Jersey 07095.	New Jersey.
(T) Thrift Rack, Inc., A. K. A. King of Prussia GND, 201 Church Road, King of Prussia, Pennsylvania 19406.	Pennsylvania.
(U) The McLain Grocery Company, 5676 Erie Street South, Massillon, Ohio 44646.	Ohio.
(V) Fleming Foods West, Inc., 5900 Stewart Avenue, P.O. Box 5004, Fremont, California 94538.	California.
(W) Fleming Foods West, Inc., 2530 East 11th Street, P.O. Box 7225, Oakland, California 94601.	California.
(X) Fleming Foods West, Inc., 999 Montague Expressway, Milpitas, California 95035.	California.
(Y) Fleming Foods West, Inc., 2205 West, 1500 South, P.O. Box 26828, Salt Lake City, Utah 84126.	California.
(Z) Fleming Foods West, Inc., Southeast Milwaukee Expressway at Pheasant Court, P.O. Box 22107, Portland, Oregon 97222.	California.
(AA) Fleming Foods West, Inc., 48811 Warm Springs Boulevard, Fremont, California 94538.	California.
(BB) Fleming Foods West, Inc., 2797 South Orange Avenue, Fremont, California 93772.	California.
(CC) Fleming Foods West, Inc., 3771 Channel Drive, Sacramento, California 95691.	California.
(DD) Fleming Foods West, Inc., A. K. A. GMD—West, 8301 Fruitridge Road, Sacramento, California 92826.	California.
(EE) Fleming Foods West, Inc., 624 South 25th Avenue, Phoenix, Arizona 85009.	California.

Principal offices	State of incorporation
(FF) White Swan, Inc., 1515 Bigtown Boulevard, Mesquite, Texas 75149.	Texas.
(GG) White Swan, Inc., 4044 Promontory Pt. Drive, Austin, Texas 78744.	Texas.
(HH) White Swan, Inc., 915 East 50th, Lubbock, Texas 79408.	Texas.
(II) White Swan, Inc., 2923 Old Tampa Highway, Lakeland, Florida 33802.	Texas.
(JJ) White Swan, Inc., 300 Portwall, Houston, Texas 77229.	Texas.
(KK) Fleming Transportation Service, Inc., 6301 Waterford Boulevard, Oklahoma City, Oklahoma 73126.	Oklahoma.

Noreta R. McGee,

Secretary.

[FR Doc. 87-27337 Filed 11-25-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31151]

Florida Midland Railroad Co; Acquisition and Operation Exemption of Rail Lines of CSC Transportation, Inc.

Florida Midland Railroad Company (FMRR), a non-carrier, has filed a notice of exemption to acquire and operate approximately 39 miles of railroad of CSX Transportation, Inc. (CSX) located in Florida. The lines consist of: (a) 14.55 miles of railroad extending from milepost ST 762.10, near Wildwood, FL, to milepost ST 773.71, near Leesburg, FL, and from milepost AS 800.76 to milepost AS 803.70 in Leesburg, FL; (b) 6 miles of railroad extending from milepost AW 842.0, near Winter Haven, FL, to milepost AW 848.0, near Gordonsville, FL; and (c) 18.57 miles of railroad extending from milepost SV 863.28, near West Lake Wales, FL, to milepost SV 867.65, and from milepost AVC 843.30 to milepost AVC 857.50, near Frostproof, FL. The agreement for transfer of the lines between FMRR and CSX is to be consummated on or before November 30, 1987.

A transaction relating to the control of FMRR by the Pinsly Railroad Company is the subject of a notice of exemption filed concurrently in Finance Docket No. 31152, *Pinsly Railroad Company—Continuance in Control Exemption—Florida Midland Railroad Company.* Any comments must be filed with the Commission and served on Robert L. Calhoun, Sullivan & Worcester, Suite 806, 1025 Connecticut Avenue, NW., Washington, DC 20036, and David W. Hemphill, DSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filling of a petition to revoke will not automatically stay the transaction.

Decided: November 5, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-27057 Filed 11-25-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31128]

Great Northern Nekoosa Corp.; Continuance in Control Exemption of the Valdosta Southern Railroad Co. and Marinette, Tomahawk & Western Railroad Co.

Great Northern Nekoosa Corp. (GNN), a noncarrier that indirectly controls, pursuant to prior Commission approval, the Chattahoochie Industrial Railroad and the Old Augusta Railroad Company, both Class III rail carriers, has filed a notice of exemption to acquire indirect control of the Valdosta Southern Railroad Company (VSR) and the Marinette, Tomahawk & Western Railroad Company (MT&W), both Class III rail carriers. GNN has acquired all of the outstanding capital stock of OI Forest Products FTS, Inc., which indirectly owns both VSR and MT&W, and GNN acquired control of the carriers upon dissolution of the voting trusts holding the VSR and MT&W stock on November 3, 1987.

GNN states that its railroads do not connect with each other, and that the acquired railroads will not connect with each other or with any railroad in GNN's corporate family. GNN also states this is not part of a series of anticipated transactions that would connect the railroads being acquired with each other or with any railroad in its corporate family. This transaction, therefore, involves the acquistion or continuance in control of nonconnecting carriers and is exempt from the prior review requirements of 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.,* 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: November 4, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-27058 Filed 11-25-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31152]

Pinsly Railroad Co.; Continuance in Control Exemption of the Florida Midland Railroad Co.

Pinsly Railroad Company (Pinsly) has filed a notice of exemption to continue in control of the Florida Midland Railroad Company (FMRR) after FMRR becomes a rail carrier. Pinsly controls under Commission approval or exemption four class III railroads: the Claremont and Concord Railway Company, Inc. (C&C), the Greenville and Northern Railway Company (G&N), the Pioneer Valley Railroad Company (PV), and the Florida Central Railroad Company (FC).

FMRR, a wholly-owned noncarrier subsidiary of Pinsly, has filed concurrently a notice of exemption in Finance Docket No. 31151, *Florida Midland Railroad Company—Acquisition and Operation Exemption—Rail Lines of CSX Transportation, Inc.* There, FMRR seeks an exemption to purchase and operate certain line segments of approximately 39 miles of railroad located near Wildwood, Leesburg, Winter Haven, Gordonsville, West Lake Wales, and Frostproof, FL. The lines will be purchased from CSX Transportation, Inc. (CSX).

Pinsly indicates that: (1) The C&C, G&N, PV, FC, and FMRR will not connect with each other or any railroad in their corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the transaction does not invovle a class I carrier. Therefore, this transaction involves the continuance in control of a nonconnecting carrier, and is exempt from the prior review requirements of 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(2).

As a condition to the use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock.*

Ry.—Control—Brooklyn Eastern Dist., 360 I.C.C. 60 (1979).[1]

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automtically stay the transaction.

Decided: November 5, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-27059 Filed 11-25-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31153]

Railtex, Inc.; Continuance in Control Exemption of the South Carolina Central Railroad Co., Inc.

Railtex, Inc. (Railtex) has filed a notice of exemption under 49 CFR 1180.4(g) regarding its continuance in control of the South Carolina Central Railroad Company, Inc. (SCC), under the provisions of 49 CFR 1180.2(d)(2). At present, Railtex commonly controls the North Carolina & Virginia Railroad Company, the Austin Railroad Company, Inc., and the San Diego & Imperial Valley Railroad Company. SCC, a wholly-owned non-carrier subsidiary of Railtex, has filed concurrently a notice of exemption in Finance Docket No. 31146, *South Carolina Central Railroad Company, Inc.—Acquisition and Operation Exemption—Florence, SC, Rail Lines.* There, SCC seeks an exemption to purchase and operate approximately 55.2 route miles of railroad located in South Carolina. The lines will be purchased from CSX Transportation, Inc. (CSX).

Railtex indicates that: (1) The railroads will not connect with each other or any railroad in their corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a class I carrier. Therefore, this transaction involves the continuance in control of a nonconnecting carrier, and is exempt from the prior review requirements of 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(2).

As a condition to the use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock. Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: November 4, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-27060 Filed 11-25-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31146]

South Carolina Central Railroad Co., Inc.; Acquisition and Operation Exemption of the Florence, SC, Rail Lines

South Carolina Central Railroad Company, Inc. (SCC), has filed a notice of exemption to purchase and operate approximately 55.2 miles of railroad extending between Florence, SC (M.P. 292.7) and Floyd, SC (M.P. 308.1); between Floyd, SC (M.P. 308.1) and Hartsville, SC (M.P. 314.0); between Hartsville, SC (M.P. 318.0) and Bishopville, SC (M.P. 331.2); between Society Hill, SC (M.P. 319.6) and Cheraw, SC (M.P. 332.4); and contiguous yard tracks located at Cheraw, SC, extending to a point 415 feet from CSX Transportation, Inc.'s (CSX) mainline switch (P.S. 14335+60). The lines will be acquired from CSX. The agreement between SCC and CSX is to be consummated on or about November 30, 1987.

This transportation will also involve the issuance of securities by SCC, which will be a class III carrier. The issuance of these securities will be an exempt transaction under 49 CFR 1175.1.

A transaction relating to the control of SCC is the subject of a notice of exemption filed concurrently in Finance Docket No. 31153, *Railtex, Inc.—Continuance in Control Exemption—South Carolina Central Railroad Company, Inc.* Any comments must be filed with the Commission and served on Mark M. Levin, Esq., Weiner, McCaffrey, Brodsky & Kaplan, P.C., Suite 800, 1350 New York Avenue, NW., Washington, DC 20005-4797, and Dave Hemphill, CSX Transportation, Inc., 500 Water St., Jacksonville, FL 32202.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: November 4, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-27061 Filed 11-25-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30800 [1]

Union Pacific Corp., Union Pacific Railroad Co., and Missouri Pacific Railroad Co.—Control; Missouri-Kansas-Texas Railroad Co., et al.

Dated: November 19, 1987.

Notice to the Parties

Oral argument has been set for Tuesday, December 1, 1987, at 9:30 A.M.[2] We have reviewed the record and briefs in this proceeding and believe that oral argument should address, among other things, several particular issues. Each carrier seeking protective conditions should discuss how those conditions would ameliorate any anticompetitive problems that might arise from the consolidation. The following issues should also be addressed by the appropriate parties:

1. Given that the UP system parallels most of the MKT system, how is this proposal consistent with the Commission's merger policy statement at 49 CFR 1180.1?

2. What are the advantages or disadvantages of the various competing trackage rights requests? What are the relative merits or each?

3. What is the present competitive situation regarding grain moving from the Omaha/Council Bluffs/Lincoln area, and how does it compare with the competitive situation the Commission analyzed in approving the UP-MP-WP merger?

4. What is the effect of the reduction of rail competitors from three to two at San Antonio? Would SP, the remaining competitor to UP at San Antonio, be an effective competitor for traffic now handled by MKT? What would be the effect of granting trackage rights to an additional carrier to serve San Antonio?

5. To what extent should the Commission be concerned with

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[1] The Railway Labor Executives' Association has filed a request for the imposition of labor protective conditions. Because this notice invovles an exemption of a transaction that would otherwise be subject to 49 U.S.C. 11343, such conditions have been imposed routinely.

[1] Embraces Finance Docket Nos. 30800 (Sub-Nos. 1-18, 20-24), and No. MC-F-17938, Docket Nos. AB-3 (Sub-Nos. 62, 63, 64X), AB-102 (Sub-Nos. 16, 17, 18X, 19X, 20, 21X, 22X, 23X), and AB-244 (Sub-No. 1X).

[2] Due to the anticipated length of this oral argument, it is to commence earlier than originally scheduled.

preserving a second rail option for aggregates shippers located between San Antonio and Austin, particularly in light of the statements from some major shippers that they do not require this option?

6. Would TM's existing degree of participation in Mexican traffic moving over Laredo be maintained by substituting another carrier's service for that of MKT at appropriate Midwest points? Is it necessary that TM itself receive an improved route to Laredo?

7. How would the Herington interchange and Central Corridor competition be affected by the merger, and is a grant of trackage rights to DRGW over OKT necessary to solve any anticompetitive problem in this regard?

8. What justification is there for granting extensive trackage rights over OKT, given that UP and MKT do not appear to compete for traffic at most OKT points?

9. How do applicants reconcile their emphasis on the importance to shippers of single-line service as a public benefit of the merger with their claims that joint-line rail service will provide effective competition for UP in many markets after the merger?

The schedule of appearances and the time provided for each party is set forth below.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons. Commissioner Simmons was absent and did not participate in the disposition of this decision.

Noreta R. McGee

Secretary.

Schedule of Appearances

The Commission will entertain requests to speak from members of Congress prior to the formal schedule. Requests have been received from Congressmen Michael Andrews (D–TX), Ralph Hall (D–TX), Ike Skelton (D–MO) and Jim Slattery (D–KS).

	Time allotted (minutes)
Primary Applicants:	
Charles Miller and Arvid Roach, Union Pacific Corporation, Union Pacific, Railroad Company and Missouri Pacific Railroad	30
Robert Kharasch, Missouri-Kansas-Texas Railroad Company	20
Responsive Applicants:	
G. Paul Moates, The Atchison, Topeka and Santa Fe, Railroad Company	10
William R. Power, Burlington Northern Railroad Company	10
Samual Freeman, The Denver & Rio Grande Western Railroad, Company	10
Morris Raker, The Kansas City Southern Railway Company	10
John MacDonald Smith, Southern Pacific Transportation Company	10
Charles White, The Texas Mexican Railroad Company	10
Betty Jo Christian, Georgetown Railroad Company/Texas Crushed, Stone Company	10
U.S. Government Parties:	
Catherine B. Klion, United States Department of Justice	10
Paul Smith, United States Department of Transportation	10
Labor:	
John Delaney, Railway Labor Executives' Association and Brotherhood of Locomotive Engineers	10

Rebuttal

Primary applicants are allotted the unused portion of their 50 minutes argument time for purposes of rebuttal.

[FR Doc. 87–27158 Filed 11–25–87; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 20502 (Telephone (202) 395–6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Revision

Pension and Welfare Benefits Administration

Employee Benefit Plan Annual Report (Form 5500 Series)
1210–0016
Annually
Businesses or other for-profit; Non-profit institutions;
Small businesses or organization
900,000 responses;
1,107,088, 3 forms

Section 104(a)(1)(A) of ERISA requires plan administrators to fill an annual report containing the information described in Section 103 of ERISA. The Form 5500 Series provides a standard format for fulfilling that requirement.

Bureau of Labor Statistics

Point of Purchase Survey (CPP)
1220–0044; CPP–1; CPP–2A; CPP–2B; Respondent Letter, CPP–3
Annually

Individuals or households 5,273 responses; 6,068 hours; 4 forms Based on data obtained from the Point of Purchase Survey, the Bureau of Labor Statistics has implemented a systematic statistical process that updates each year the outlet samples for one-fifth of the 91 urban areas that are being priced for the Consumer Price Index (CPI). This methodology, over a 5-year cycle, ensures that the outlet samples, from

which price changes are compiled for the CPI, are kept current and continue to properly represent the places in which consumers are purchasing goods and services.

Extension

Mine Safety and Health Administration

Mine Operator Dust Data Card
1219–0011
Bimonthly
Businesses and other for profit; small businesses or organizations
2,500 respondents;
93,472 hours

Coal mine operators are required to collect and submit respirable dust samples to MSHA for analysis. Pertinent information associated with identifying and analyzing these samples is submitted on the dust data cards that accompanies the samples.

Respirator Program Records
1219–0048
On occasion
Businesses and other for profit; small businesses or organizations
600 respondents;
3,375 hours

Requires operators of metal and nonmetal mines to establish a program which consists of written standard operating procedures governing the selection, use, and care of respirators. Respirator programs are required to be established when engineering controls fail to reduce airborne contaminants to permissible levels. Mine operators are also required to conduct fit testing of respirator devices and to keep records of the results. Fit-testing records are used to ensure that a respirator worn by an individual is in fact the one for which the individual received a tight fit.

Impoundment and Refuse Pile Plans and Revisions
1219–0060
On occasion
Businesses or other for profit; small businesses or organizations
210 respondents;
79,300 hours

Requires coal mine operators to submit plans, and revisions thereof, for the construction of refuse piles and impounding structures to MSHA for approval.

Reinstatement

Bureau of Labor Statistics

New York Business Birth Survey
BLS 790 BBS
Other—one time
State and local government; Business or other for profit;
Federal agencies or employment; Non-profit institutions;
Small business or organizations.
2040 responses;
204 hours; 1 form

The Current Employment Statistics Survey, which produces national employment, hours and earnings data by industry, has a lagtime in estimating new business employment. This survey will decrease this lagtime and provide more accurate estimates of new business employment.

Signed at Washington, DC this 20th day of November, 1987.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 87–27265 Filed 11–25–87; 8:45 am]

BILLING CODE 4510–24–M

Senior Executive Service; Appointment of Members to the Performance Review Board

Title 5 U.S.C. 4314(c)(4) provides that Notice of the appointment of individuals to serve as members of the Performance Review Board of the Senior Executive Service shall be published in the **Federal Register.**

The following executives are hereby appointed or reappointed, respectively, to three-year terms, effective November 18, 1987:

Betty Bolden
Janet L. Norwood

FOR FURTHER INFORMATION CONTACT: Mr. Larry K. Goodwin, Director of Personnel Management, Room C5526, Department of Labor, Frances Perkins Building, Washington, DC 20210, Telephone Number 523–6551.

Signed at Washington, DC, this 20th day of November.

Dennis E. Whitfield,

Deputy Secretary of Labor.

[FR Doc. 87–27266 Filed 11–25–87; 8:45 am]

BILLING CODE 4510–23–M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) documents entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW., Room S-3504, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I

Georgia:
GA87-22 (JAN. 2, 1987)..... p. 270.
Massachusetts:
MA87-3 (JAN. 2, 1987)..... pp. 402, 404.
New York:
NY87-1 (JAN. 2, 1987)..... p. 682.
Pennsylvania:
PA87-14 (JAN. 2, 1987)..... p. 949.

Volume II

Illinois:
IL87-1 (JAN. 2, 1987)..... pp. 70-71, pp. 73, 76, pp. 87-88, pp. 90-92.
IL87-2 (JAN. 2, 1987)..... pp. 97-87, pp. 100-101, p. 110.
IL87-7 (JAN. 2, 1987)..... p. 136, pp. 138-140.
IL87-17 (JAN. 2, 1987)..... pp. 216, 222, p. 226
Nebraska:
NE87-1 (JAN. 2, 1987)..... p. 666.

Volume III

Arizona:
AZ87-2 (JAN. 2, 1987)..... pp. 16-17, pp. 19-20, pp. 26-27.
Arizona:
AZ87-4 (JAN. 2, 1987)..... p. 34b.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the Country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC This 19th Day of November 1987.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 87-27092 Filed 11-25-87; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

[TA-W-20,114]

Babcock & Wilcox Co., Donora, Assembly Site, Donora, PA; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated in response to a worker petition received on September 28, 1987 and filed by the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, Local 906, on behalf of workers and former workers at Babcock & Wilcox Company, Donora Assembly Site, Donora, Pennsylvania. The workers fabricated and assembled large steel flues and ducts.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC this 18th day of November 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-27282 Filed 11-25-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-20,134]

MCR, Inc., Mebane, NC; Termination of Investigation

The Office of Trade Adjustment Assistance received a petition on September 28, 1987 which was filed by workers employed at NCA, Inc. in Burlington, North Carolina. An investigation was initiated for NCA, Inc. on September 28, 1987 (TA-W-20,127), and that investigation is currently ongoing. By mistake, an investigation (TA-W-20,134) was also initiated for MCR, Inc. in Mebane, North Carolina, a sister plant of NCA which was mentioned in the petition but which is not the facility employing the petitioning workers.

Since there is not integration of production between NCA and MCR and the petitioning workers do not represent MCR, the investigation of MCR, Inc. in Mebane, North Carolina has been terminated.

Signed at Washington, DC, this 18th day of November 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-27283 Filed 11-25-87; 8:45 am]

BILLING CODE 4510-30-M

Unemployment Compensation for Ex-Servicemembers (UCX) Benefits; Unemployment Insurance Program Letter No. 7-88

On December 17, 1982, instructions for implementing the amendments made to 5 U.S.C. 8521 which affect entitlement for UCX were transmitted to all State employment security agencies (SESAs) in Unemployment Insurance Program Letter (UIPL) No. 9-83. Recently, the Department of Labor revised its interpretation with respect to (a) the 4-week waiting period and (b) the applicability of the 13-week benefit limitation.

Therefore, the Department of Labor has announced to all SESAs the revised departmental interpretations and instructions for implementing amendments made to 5 U.S.C. 8521 which affect entitlement to UCX. The revised departmental interpretations and instructions are contained in UIPL No. 7-88, and are effective with respect to all new claims (for a first or second benefit year) which are filed on or after the date of publication of the UIPL in the Federal Register. Unemployment

Insurance Program Letter No. 7–88 is published below.

Dated: November 20, 1987.

Roger Semerad,

Assistant Secretary of Labor.

U.S. Department of Labor

Employment and Training Administration
Washington, D.C. 20210

Classification: UI/UCX.
Correspondence Symbol: TEUMI.
Date: November 19, 1987.
Directive: Unemployment Insurance Program Letter No. 7–88
To: All State Employment Security Agencies
From: Donald J. Kulick, Administrator, for Regional Management.
Subject: Revised Departmental Interpretations Regarding Public Law (P.L.) 97–362, Amendments Which Affect Payments of UCX Benefits.

1. *Purpose.* To announce revised departmental interpretations in instructions for implementing amendments made to 5 U.S.C. 8521 which affect entitlement to unemployment compensation of ex-servicemembers (UCX).

2. *References.* 5 U.S.C. 8521 (Section 201 of P.L. 97–362), 20 CFR Part 614, UIPL 40–81, UIPL 23–82 and UIPL 9–83.

3. *Background.* On December 17, 1982, instructions for implementing the amendments made to 5 U.S.C. 8521 which affect entitlement for UCX were transmitted to all SESAs in UPOL 9–83. Recently, DOL revised its interpretation with respect to (a) the 4-week waiting period and (b) the applicability of the 13-week benefit limitation.

4. *Interpretations.* The following revised departmental interpretations should be followed by SESAs in applying UCX eligibility requirements:

a. *Monetary award.* The maximum amount of UCX which shall be payable to an individual with respect to a benefit year shall not exceed 13 times the individual's weekly benefit amount (13xWBA) for total unemployment (5 U.S.C. 8521 (c)(2)).

This limitation does not preclude an individual from establishing monetary entitlement based on lag quarter Federal wages for a subsequent benefit year even if the individual's entitlement to compensation payable equalled 13 times the WBA for the first benefit year including EB or any Federal extension. The previous departmental interpretation to this subject transmitted in UIPL No. 9–83 reflected a more strict interpretation limiting benefits to 13 weeks in one or more benefit years.

b. *Period of eligibility.* An individual is not entitled to UCX benefits before the fifth week beginning after the week in which the individual was discharged or released from service (5 U.S.C. 8521 (c)(1)).

The previous departmental interpretation on this subject transmitted in UIPL No. 9–83 contained a more restrictive interpretation, namely that the 4-week waiting period must be in addition to any waiting period a State may require. Under the present interpretation, the State waiting period may be included in the 4-week Federal waiting period if a timely initial claim for benefits is filed after all Federal and State requirements are satisfied. However, the State waiting period must be served in addition to the UCX 4-week waiting period if the State waiting period occurs outside of, and after, the 4-week period because of the late filing of an initial claim for benefits.

5. *Effective Date.* The revised interpretations contained in this UIPL are effective for all initial claims (for a first or second benefit year) filed on or after the date this program letter is published in the **Federal Register.**

6. *Action Required.* State administrators should provide the above information to all appropriate staff.

7. *Inquiries.* Direct inquiries to appropriate Regional Office.

Expiration Date: November 30, 1988.

[FR Doc. 87–27284 Filed 11–25–87; 8:45 am]
BILLING CODE 4510–30–M

Mine Safety and Health Administration

[Docket No. M–87–170–C]

Burnside Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Burnside Mining Company, R.D. #1, Box 126, Paxinos, Pennsylvania 17860 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity, and velocity) to its Slope No. 2 (I.D. No. 36–06724) located in Northumberland County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the minimum quantity of air reaching the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair or set of rooms be 9,000 cubic feet a minute, and the minimum quantity of air reaching the intake end of a pillar line be 9,000 cubic feet a minute. The minimum quantity of air in any coal mine reaching each working face shall be 3,000 cubic feet a minute.

2. Air sample analysis history reveals that harmful quantities of methane are nonexistent in the mine. Ignition, explosion, and mine fire history are nonexistent for the mine. There is no history of harmful quantities of carbon monoxide and other noxious or poisonous gases.

3. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

4. Extremely high velocities in small cross sectional areas of airways and manways required in friable Anthracite veins for control purposes. Particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners and cause extremely uncomfortable damp and cold conditions in the mine.

5. As an alternate method, petitioner proposes that:

a. The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

b. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be 5,000 cubic feet per minute; and

c. The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 28, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: November 19, 1987.

[FR Doc. 87–27273 Filed 11–25–87; 8:45 am]
BILLING CODE 4510–43–M

[Docket No. M–87–235–C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidatation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Ireland Mine (I.D. No. 46–01438) located in Marshall County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be separated from belt

haulage entries and that belt haulage entries not be used to ventilate active working places.

2. As an alternate method, petitioner proposes to use air in the belt entry to ventilate active working places and planned longwall panels. In support of this request, petitioner states that—

(a) The belt conveyor entry will be examined at least once each coal producing shift while persons are working;

(b) An early-warning fire detection system, using a low-level carbon monoxide detection system, will be installed and operated with specific conditions in all belt entries used as intake aircourses.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 38, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: November 18, 1987.

[FR Doc. 87-27267 Filed 11-25-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-236-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition of modify the application of 30 CFR 75.1103-4 (automatic fire sensor and warning device systems; installation; minimum requirements) to its Ireland Mine (I.D. No. 46-01438) located in Marshall County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic fire sensor and warning device systems provide identification of fire within each belt flight.

2. As an alternate method, petitioner proposes to use air in the belt entry to ventilate active working places and planned longwall panels. In support of this request, petitioner states that—

(a) The belt conveyor entry will be examined at least once each coal producing shift while persons are working;

(b) An early-warning fire detection system, using a low-level carbon monoxide detection system, will be installed and operated with specific conditions in all belt entries used as intake aircourses.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be file with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 28, 1987. Copies of the petition are available for inspection at that address.

Dated: November 18, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-27268 Filed 11-25-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-237-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Shoemaker Mine (I.D. No. 46-01436) located in Ohio County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be separated from belt haulage entries and that belt haulage entries not be used to ventilate active working places.

2. As an alternate method, petitioner proposes to use air in the belt entry to ventilate active working places and planned longwall panels. In support of this request, petitioner states that—

(a) The belt conveyor entry will be examined at least once each coal producing shift while persons are working;

(b) An early-warning fire detection system, using a low-level carbon monoxide detection system, will be installed and operated with specific conditions in all belt entries used as intake aircourses.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 28, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: November 18, 1987.

[FR Doc. 87-27269 Filed 11-25-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-238-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1103-4 (automatic fire sensor and warning device systems; installation; minimum requirements) to its Shoemaker Mine (I.D. No. 46-01436) located in Ohio County, West Virgina. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic fire sensor and warning device systems provide identification of fire within each belt flight.

2. As an alternate method, petitioner proposes to use air in the belt entry to ventilate active working places and planned longwall panels. In support of this request, petitioner states that—

(a) The belt conveyor entry will be examined at least once each coal

producing shift while persons are working;

(b) An early-warning fire detection system, using a low-level carbon monoxide detection system, will be installed and operated with specific conditions in all belt entries used as intake aircourses.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 28, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: November 18, 1987.

[FR Doc. 87-27270 Filed 11-25-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-239-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its McElroy Mine (I.D. No. 46-01437) located in Marshall County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be separated from belt haulage entries and that belt haulage entries not be used to ventilate active working places.

2. As an alternate method, petitioner proposes to use air in the belt entry to ventilate active working places and planned longwall panels. In support of this request, petitioner states that—

(a) The belt conveyor entry will be examined at least once each coal producing shift while persons are working;

(b) An early-warning fire detection system, using a low-level carbon monoxide detection system, will be installed and operated with specific conditions in all belt entries used as intake aircourses.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 28, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: November 18, 1987.

[FR Doc. 87-27271 Filed 11-25-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-240-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1103-4 (automatic fire sensor and warning device systems; installation; minimum requirements) to its McElroy Mine (I.D. No. 46-01437) located in Marshall County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic fire sensor and warning device systems provide identification of fire within each belt flight.

2. As an alternate method, petitioner proposes to use air in the belt entry to ventilate active working places and planned longwall panels. In support of this request, petitioner states that—

(a) The belt conveyor entry will be examined at least once each coal producing shift while persons are working;

(b) An early-warning fire detection system, using a low-level carbon monoxide detection system, will be installed and operated with specific conditions in all belt entries used as intake aircourses.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 28, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: November 18, 1987.

[FR Doc. 87-27272 Filed 11-25-87; 8:45]

BILLING CODE 4510-43-M

[Docket No.M-87-36-M]

Dolese Brothers Co.; Petition for Modification of Application of Mandatory Safety Standard

Dolese Brothers Company, 20 NW. 13th Street, P.O. Box 677, Oklahoma City, Oklahoma 73101 has filed a petition to modify the applcation of 30 CFR 56.14001 (moving machine parts) to its Big Canyon Rock Quarry (I.D. No. 34-00014), its Davis Rock Quarry (I.D. No. 34-00798), and its Rayford Rock Quarry (I.D. No. 34-00013), all located in Murray County, Oklahoma; its Coleman Rock Quarry (I.D. No. 34-00405) located in Atoka County, Oklahoma; its Cooperton Rock Quarry (I.D. No. 34-00037) located in Kiowa County, Oklahoma; its Cyril Rock Quarry (I.D. No. 34-00404) located in Caddo County, Oklahoma; its Hartshorne Rock Quarry (I.D. No. 34-00015) located in Pittsburg County, Oklahoma; its Konawa Rock Quarry (I.D. No. 34-00016) located in Seminole County, Oklahoma; its Richards Spur Rock Quary (I.D. No. 34-00011) located in Comanche County, Oklahoma; it, Dover Sand Plant (I.D. No. 34-00359) located in Kingfish County, Oklahoma; its Guthrie Sand Plant (I.D., No. 34-00360) located in Logan County, Oklahoma; its West Robbins Sand Plant (I.D. No. 14-00477) located in Sedgwick County, Kansas; its Spencer Sand Plant (I.D. No. 34-00835) located in Oklahoma County, Oklahoma; and its Yukon Sand Plant (I.D. No. 34-01365) located in Canadian County, Oklahoma. The petition is filed under section 101(c) of

the Federal Mine Safety and Health Act of 1977.

A sumary of the petitioner's statement follows:

1. The petition concerns the requirement that gears; sprockets; chains; head, tail, and takeup pulleys; flywheels; couplings; shafts; sawblades; fan inlets; and similar exposed moving machine parts which may be contacted by persons and which may cause injury to persons be guarded.

2. In lieu of individuals pinch point guards and V-belt guards on certain types of mining equipment petitioner proposes to erect a metal or chain link fence of adequate height around the flywheels, chains, sprockets, V-belt drive and pulleys with a secure gate of the same height and material. The gate will be padlocked to prevent entry while the plant is in operation. The gate will also have a danger sign posted on it to warn the employees.

3. For these reasons, petitioner requires a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 28, 1987. Copies of the petition are available for inspection at that address.

Dated: November 18, 1967.

Patricia W. Silvey,

Acting Associate Assistance Secretary for Mine Safety and Health.

[FR Doc. 87-27274 Filed 11-25-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-230-C]

Doss Fork Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Doss Fork Coal Company, Inc., 621 Commerce Street, P.O. Box 873, Bluefield, West Virginia 24701 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Mine No. 1 (I.D. No. 46-07174) located in McDowell County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine is 48 inches in height with soft and extremely wet floors, and in order to avoid having to use another piece of mobile equipment to tram the roof bolter, the roof bolter has been equipped with larger tires than usual.

3. Petitioner states that the use of cabs or canopies on the mine's electric face equipment would result in a diminution of safety to the miners affected because the mine floor is undulating and operation of the roof bolter with a cab or canopy in place along with the larger tires would cause the cab or canopy to cause damage to roof bolts, or could knock the cab or canopy loose injuring the operator.

4. Petitioner further states that removing the large tires from the roof bolter would necessitate bringing in another piece of mobile equipment to tram the roof bolter, which would create additional hazards.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 28, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: November 18, 1987.

[FR Doc. 87-27275 Filed 11-25-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-229-C]

Jim Walter Resources, Inc., Petition for Modification of Application of Mandatory Safety Standard

Jim Walter Resources, Inc., P.O. Box C-79, Birmingham, Alabama 35283 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its No. 3 Mine (I.D. No. 01-00758) located in Jefferson County, Alabama. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that entries used as intake and return aircourses be separated from belt haulage entries, and that belt haulage entries not be used to ventilate active working places.

2. Petitioner states that due to geological conditions it will be necessary to locate the belt haulage entry in the return aircourse to drive one side of a longwall panel.

3. As an alternate method, petitioner proposes to develop a three entry system which will be located within 1,000 feet of an intake air shaft, coupled with a 24 foot wide intake aircourse and split system of ventilation which will provide minimum pressure loss and maximum air quantities for full panel drivage. A split system of face ventilation will prevent mining support operations from being down wind of the continuous miner.

4. In support of this request, petitioner proposes to install an atmospheric monitoring station capable of monitoring for methane and carbon monoxide (CO) before the return air split joins a second air split, and additional methane and carbon monoxide stations will be located 500 feet downwind of the tailpiece and at 2,000 foot intervals. If the methane level exceeds 0.5 percent or the (CO) level exceeds 10 parts per million (ppm) above the ambient, an audible and visual alarm will be activated at the belt conveyor tailpiece. When the alert signal sounds at the loading point, the shift foreman or the section mine foreman will be notified and an investigation will be made. If the methane level exceeds 1.0 percent or the CO level exceeds 15 ppm above ambient, the belt conveyor power center will be automatically de-energized. When the CO alarm signal sounds at the loading point, all miners in the affected section will be evacuated to the monitor location. In the event a fire is encountered, the mine evacuation plan will be implemented. When the methane alarm signal sounds at the loading point, minor changes and adjustments in airflow will be made during the time that the conveyor belt is de-energized. The belt conveyor power center will be arranged for manual reset only.

5. The atmospheric monitoring system will be capable of giving warning of a fire for a minimum of four hours should the power fail. The atmospheric monitoring system will be capable of monitoring electrical continuity and detecting electrical malfunctions.

6. The atmospheric monitoring system will be visually examined at least once each coal-producing shift and tested for functional operation weekly to insure the monitoring system is functioning properly. The monitoring system will be calibrated with known concentrations of

carbon monoxide and methane air mixtures at least monthly.

7. If the atmospheric monitoring system is deenergized for routine maintenance or for failure of a senor unit, the belt conveyor will continue to operate and a qualified person will patrol and monitor for CO and methane.

8. The conveyor belt electric motor and starter will be installed in an intake split of air coursed directly to the return.

9. The alternate escapeway will be in the return aircourse other than the belt return aircourse.

10. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 28, 1987. Copies of the petition are available for inspection at that address.

Date: November 18, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-27276 Filed 11-25-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-251-C]

Kaiser Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Kaiser Coal Corporation, 102 South Tejon Street, Suite 800, P.O. Box 2679, Colorado Springs, Colorado 80901-2679 has filed a petition to modify the application of 30 CFR 75.1103-4 (automatic fire sensor and warning device systems; installation; minimum requirements) to its Sunnyside Mine No. 1 (I.D. No. 42-00093), its Sunnyside Mine No. 2 (I.D. No. 42-00094), and its Sunnyside Mine No. 3 (I.D. No. 42-00092), all located in Carbon County, Utah. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic fire sensor and warning device systems provide identification of fire within each belt flight.

2. As an alternate method, petitioner proposes to install an early warning fire detection system at each mine. A low-level carbon monoxide monitor will be located at each section tailpiece, at 2000 foot intervals in each belt flight and at each transfer point where coal dumps onto another belt. The monitoring or sensing devices will be capable of providing warning of a fire for up to four hours should the power fail. A visual and/or audible alert signal will occur when the CO level reaches 25 parts per million (ppm), and an audible signal will occur and all persons will be withdrawn when the CO level reaches 30 ppm. The alarm signal will be activated at a monitored and attended surface location where two-way communication exists. The CO monitoring system will be capable of identifying any malfunctions.

3. The system will be visually examined once during each coal-producing shift and tested for functional operation weekly to insure the system is functioning properly. The system will be calibrated at least monthly.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 28, 1987. Copies of the petition are available for inspection at that address.

Date: November 19, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-27277 Filed 11-25-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-207-C]

Mountain View Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Mountain View Coal Company, R.D. #1, Box 104, Williamstown, Pennsylvania 17098 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its R & S Slope (I.D. No. 36-07850) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for the steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if "makeshift" safety devices were installed they would be activated on knuckles and curves when no emergency existed and cause a tumbling effect on the conveyance.

4. As an alternate method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, above the main connecting device. The hoisting ropes would have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 28, 1987. Copies of the petition are available for inspection at that address.

Dated: November 19, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-27278 Filed 11-25-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-216-C]

North Mountain Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

North Mountain Coal Company, R.D.

1, Box 32A, Dornsife, Pennsylvania 17823 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its West Side South Dip Mine (I.D. No. 36–07681) located in Northumberland County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for the steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if "makeshift" safety devices were installed they would be activated on knuckles and curves when no emergency existed and cause a tumbling effect on the conveyance.

4. As an alternate method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, above the main connecting device. The hoisting ropes would have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 28, 1987. Copies of the petition are available for inspection at that address.

Dated: November 19, 1976.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87–27279 Filed 11–25–87; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–87–241–C]

Pyro Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Pyro Mining Company, P.O. Box 267, Sturgis, Kentucky 42459 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Pyro No. 9 Slope, William Station Mine (I.D. No. 15–13881) located in Union County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that seals and return aircourses be examined in their entirety on a weekly basis.

2. Petitioner states that a certain area of the seal has deteriorated from longwall abutment pressure and horizontal stress. As a result of the adverse conditions, the area leading to the seal is difficult and hazardous to examine and rehabilitation of this area would expose miners to hazardous conditions.

3. As an alternate method, petitioner proposes to establish monitoring stations, at specific locations, where examinations for hazardous conditions will be made by a certified person on a weekly basis. The monitoring stations and all access routes will be maintained in a safe condition.

4. In support of this request, petitioner states that a continuous methane monitor will be located at evaluation point one which will be tied into a computer monitoring center located on the surface. Methane will not be allowed to accumulate beyond legal limits in the bleeder. If there is a variation in quantity of methane in excess of 0.5 percent, immediate corrective action will be taken.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 28, 1987. Copies of the petition are available for inspection at that address.

Date: November 18, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87–27280 Filed 11–25–87; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–87–168–C]

Skidmore Coal Co., Petition for Modification of Application of Mandatory Safety Standard

Skidmore Coal Company, 123 Main Street, Joliett-Tremont, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its Skidmore Slope (I.D. NO. 36–07461) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for the steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if "makeshift" safety devices were installed they would be activated on knuckles and curves when no emergency existed and cause a tumbling effect on the conveyance.

4. As an alternate method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hositing rope, above the main connecting device. The hoisting ropes would have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All

comments must be postmarked or received in that office on or before December 28, 1987. Copies of the petition are available for inspection at that address.

Date: November 17, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-2721 Filed 11-25-87; 8:45 am]

BILLING CODE 4510-43-M

Pension and Welfare Benefits Administration

[Application No. D-7175] et al.

Proposed Exemptions; the Manhattan Mutual Life Ins. Co. et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Regulations and Interpretations, Room N-5669, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

The Manhattan Mutual Life Insurance Company Home Office Employees' Pension Plan (the Plan) Located in Manhattan, KS

[Application No. D-7175]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the December 1, 1985 transfer of $524,639 in securities to the Plan by the Manhattan Mutual Life Insurance Company (MMLIC), provided such amount constituted the fair market value of the securities on the date of the transfer.

Effective Date: If this proposed exemption is granted, it will be effective December 1, 1985.

Summary of Facts and Representations

1. MMLIC, the Plan sponsor, is a mutual life insurance company with assets of approximately $20,000,000. The Plan is a defined benefit pension plan with approximately 20 participants.

2. For many years, MMLIC followed the common industry practice of holding life insurance companies' pension plan assets as a specific liability/reserve account against the general assets of the company. In a September 4, 1984 letter (the Letter) to the American Council of Life Insurance (ACLI), which Letter was forwarded to MMLIC, the Department expressed its position that these practices were incompatible with the fiduciary provisions of the Act, and that insurance companies should either issue or purchase an insurance policy or annuity contract for the plan, place the plan assets in a separate account, or place the plan assets in trust.[1]

3. In an attempt to comply with the directives of the Department as expressed in the Letter, MMLIC established a trust for Plan assets in 1985. On December 1, 1985, $524,639 in securities and $2,293 in cash was transferred to the newly-created trust. The securities transferred were 21 utility

[1] The Letter to ACLI reads, in pertinent part, as follows: "As you may be aware, the U.S. Department of Labor has conducted several investigations pursuant to ERISA pertaining to pension plans established and maintained by life insurance companies for their own employees. I am writing to seek your assistance in apprising your organization's membership of our concerns regarding a pattern of funding benefits which we have now observed in a number of cases. While the facts vary somewhat from case to case, the plans share the following characteristics: plan assets, rather than being invested in policies of insurance, placed in separate accounts, or held in trust, are commingled in the plan sponsor's general account; the plan's interest in the general account is included as an asset on the corporate balance sheet, with an offsetting entry equivalent to the plan's assets identified as a corporate liability; the plan is typically credited with an arbitrary rate of return on investment which is lower than the return the company actually receives on its general account investments.

These practices raise a number of questions concerning compliance with the fiduciary provisions of ERISA. In particular, the plan assets would be placed at serious and unnecessary risk in the event of the insurance company's insolvency. It would appear that in such circumstances not only might the plan's assets be made subject to the claims of the company's creditors, but the participants would be deprived of the opportunity to secure the priority position in liquidation accorded policyholders in most states, or to participate in state-sponsored insurance guaranty funds.

The Department believes that these arrangements could be prospectively corrected by any one of the following courses of action: (1) Issuance or purchase of a policy of insurance or annutiy contract for the plan, (2) placement of plan assets in a separate account, or (3) placement of plan assets in trust. Of course, under each of these instances the plan must receive or be credited with income appropriate to the medium selected.

As stated above, because of the recurring nature of this problem, we thought it would be useful to bring this matter to the attention of the ACLI, with a request that the Department's views be communicated to your membership."

bonds, which were all high quality A and AA bonds, publicly traded on the New York, American and Over-the-Counter Bond Exchanges. The securities were valued by reference to an independent third party source, Standard & Poor's Bond Guide (the Guide). The largest single bond represented approximately 10.6% of Plan assets; the average bond represented approximately 4.7% of Plan assets at the time of the transfer.

4. The Guide is a nationally recognized bond rating and valuation publication. The November 1985 Guide was used because the *Wall Street Journal* does not quote all bond prices daily, and the November Guide provided the most current pricing on the utility bonds available to the applicants. The applicants further represent that the December, 1985 Guide (published December 10, 1985) would give the closest fair market value to December 1, 1985. The December Guide showed that in every instance the fair market value of the subject utility bonds increased from the prior month. Thus, the Plan actually received bonds having a greater fair market value on the date of the transaction than the value assigned to them through the use of the November Guide.

5. MMLIC represents that it relied on the opinion of tax and pension counsel that the transfer of the securities would not constitute a prohibited transaction. MMLIC also relied on its own general counsel to approve the transaction. MMLIC requested the Plan's actuary to monitor the transaction for purposes of ascertaining the correct amount of assets to transfer to satisfy any Plan liabilities. The amount of all the securities plus the cash transferred at December 1, 1985 was made based on a letter from the Plan's actuary stating the proper amount to transfer as of that date.

6. United Missouri Bank of Kansas City (the Bank), an independent fiduciary to the Plan with no banking or other relationship with MMLIC, has reviewed the subject transaction and determined that the securities transferred to the Plan did have a fair market value of $524,639 as of the December 1, 1985 date of transfer. The Bank represents that this amount was the appropriate amount for MMLIC to transfer to the Plan as of December 1, 1985. The Bank further represents that in its opinion, MMLIC acted in the best interests of the Plan and its participants, and the amount transferred offered the participants adequate protection from any unnecessary risks.

7. MMLIC filed this exemption application after being informed by the Internal Revenue Service and the Department that the subject transaction constituted a prohibited transaction. In the absence of the granting of the exemption proposed herein, MMLIC would be liable for an excise tax as a result of the transaction.

8. In summary, the applicant represents that the subject transaction met the criteria for an exemption contained in section 408(a) of the Act because (1) the transaction was a one-time transaction resulting from MMLIC's attempt to comply with the Department's directives as expressed in the Leter; (2) the securities transferred into the trust were all high quality, publicly-traded utility company bonds; (3) the largest single bond represented approximately 10.6% of Plan assets after the transfer; and (4) the bonds were all valued by reference to an objective, independent source, the Guide.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Figtown, Incorporated Profit Sharing Plan (the Plan) Located in Fresno, CA

[Application No. D–7253]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a)(1), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) The proposed loan (the loan) of $58,406 by the Plan to First Herndon Properties (FHP), a party in interest with respect to the Plan, provided the terms and conditions of the Loan are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party; and (2) the personal guarantee of the Loan to the Plan by Mr. Larry Mesple (Mr. Mesple) and Mr. Randy J. Hill (Mr. Hill), parties in interest with respect to the Plan.

Summary of Facts and Representations

1. The Plan is a defined contribution plan with two participants, Messrs. Mesple and Hill, and assets of $233,624 as of April 30, 1987. Messrs. Mesple and Hill are also the Plan's trustees and the two sole shareholders of Figtown, Inc. (the Employer), the Plan sponsor. The Employer incorporated in California in June, 1977, and is engaged in real estate development.

2. The applicants request an exemption that will permit the Plan to loan the sum of $58,406 to FHP, a partnership owned equally by Messrs. Mesple and Hill. The applicants represent that the Loan would represent no greater than 25% of Plan assets. FHP, a California general partnership formed in December, 1975, is engaged in investment in real estate and securities, including trust deeds. The Loan will have a term of ten years with installments of principal and interest payable monthly. The interest rate will be three percent over the West Coast prime rate as published in the West Coast edition of the Wall Street Journal and will be adjusted annually on the Loan anniversary date. The Loan will be secured by a first trust deed on improved real property located at 6700 North First Street, Fresno, California (the Property). The record owner of the Property is Countryside Homes, under which name, at the time of the Property's purchase, FHP was then doing business.

3. The Property has been appraised by Michael Soper (Mr. Soper), M.B.A., a member of the Society of Real Estate Appraisers. He represents that he is independent of the Employer, the Plan, FHP and Messrs. Mesple and Hill. Mr. Soper has appraised the fair market value of the Property as of March 20, 1987, to be $500,000. This amount represents more than 850% of the value of the proposed Loan.

4. Messrs. Mesple and Hill have personally guaranteed repayment of the Loan. Mr. Mesple has represented his net worth to be $2,076,747. Mr. Hill has represented his net worth to be $2,872,185.

5. Robert D. Coverdale (Mr. Coverdale) has agreed to act as independent fiduciary for the Plan with respect to the proposed Loan for its duration and will undertake all actions to protect the Plan and safeguard its interests. Mr. Coverdale is a Vice President and Loan Manager for the Fresno Bank of Commerce and Western Commercial Mortgage Company and has had more than seventeen years experience in the banking and loan industries. The applicant represents that Mr. Coverdale is independent of the Employer, FHP and Messrs. Mesple and Hill and that less than 1% of net receipts of Mr. Coverdale, Fresno Bank of Commerce or Western Commercial Mortgage Company is derived from FHP or Messrs. Mesple and Hill. Mr. Coverdale reviewed the terms of the proposed Loan on July 2, 1987 and made

the following findings: (a) The Loan is a prudent diversification of the Plan's assets, which are currently invested in cash and cash equivalents; (b) the annually adjustable Loan interest rate at three percent above the West Coast prime is favorable to the Plan and offers protection from possible future inflation; (c) the Plan will be exposed to minimal risk because the Property securing the Loan is in a viable commercial area and is fully leased; (d) as a corporate officer of financial institutions, he would grant loans with similar terms and conditions; and (e) the proposed Loan is in the best interests of the Plan's participants and beneficiaries. The applicant represents that Mr. Coverdale will similarly determine that the terms of the proposed Loan are in the Plan's best interests immediately prior to the Plan's disbursement of Loan proceeds.

6. In summary, the applicants represent that the proposed transaction meets the criteria of section 408(a) of the Act because: (a) The rate of return to the Plan on the Loan will protect the Plan from possible future inflation; (b) the Loan will be secured by property having an appraised fair market value of at least 850% of the Loan; (c) no more than 25% of the Plan's assets will be invested in the Loan; (d) an independent fiduciary has reviewed the terms of the Loan and determined that they are similar to those negotiated between unrelated parties to an arm's-length transaction; and (e) an independent fiduciary has found that the proposed Loan is in the best interests of the Plan's participants and beneficiaries.

Notice to Interested Persons: Because Messrs. Mesple and Hill are the sole Plan participants, the Department has determined that there is no need to distribute the notice of pendency of the proposed exemption to interested persons. Comments and requests for hearing must be received within 30 days of the date of publication of this notice of proposed exemption.

For Further Information Contact: Mrs. Betsy Scott of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

M.E.F., Inc. Money Purchase Pension Plan and Trust (the Pension Plan) and M.E.F., Inc. Profit Sharing Plan and Trust (the Profit Sharing Plan; Collectively, the Plans) Located in Bellefontaine, OH

[Application No. D-7303]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed purchase by the individually-directed Accounts (the Accounts) in the Plans of Dr. Michael E. Failor (Dr. Failor) of certain farm property (the Farm), for the total cash consideration of $175,000, from the Estate of Pearl Lutz (the Lutz Estate), of whom some of the beneficiaries (the Beneficiaries) are disqualified persons with respect to the Plans, provided the amount paid for the Farm is not more than the fair market value at the time the transaction is consummated.[1]

Summary of Facts and Representations

1. The Plans are defined contribution plans consisting of the Pension Plan and the Profit Sharing Plan. As of September 22, 1987, the Pension Plan and the Profit Sharing Plan had Dr. Failor as their sole participant and total assets of $465,856 and $312,000, respectively. These amounts also comprised the asset totals of Dr. Failor's Accounts in the Plans. The trustee of the Plans is Dr. Failor. As a participant in the Plans, Dr. Failor is authorized to direct the investments in his Accounts. The Employer, of which Dr. Failor is the sole shareholder and employee, renders medical services in Bellefontaine, Ohio.

2. The decedent, Mrs. Pearl Lutz, was the grandmother of Dr. Failor. Upon her death, Mrs. Lutz left an estate to members of her family. The Lutz Estate consists of $113,332 in various bank accounts, $1,452 in tangible personalty, the Farm consisting of 160 acres and an account receivable in the amount of $5,500 generated from the rental of the Farm over a six month period. The Beneficiaries of the Lutz Estate are Dr. Failor, who with his brother and four cousins collectively received a one-third interest (or one-eighteenth interests, individually), Ms. Miriam McCutcheon, the aunt of Dr. Failor, who received a one-third interest and Mrs. Fern E. Failor, Dr. Failor's mother, who received the remaining one-third interest. The executor of the Lutz Estate (the Executor) is Dr. Failor's brother.

3. The Farm is located in the Southeast corner of Eaton and Lemert Roads in Holmes Township, Section II, Crawford County, Ohio. Besides the existing acreage, the Farm property includes a vacant frame house, a large barn with attached sheds and various improvements. The Farm has been in Dr. Failor's family since the 1840's and it is presently unencumbered by a mortgage. The land comprising the Farm has been leased to an unrelated farmer for the past fifteen years. The leasing arrangement is expected to continue. In addition, it is anticipated that the dwelling on the Farm will be leased to an unrelated party for a monthly rental of $175.

4. According to the applicant, under Ohio law, title to real estate vests in the heirs of the decedent at the time of death subject to divestment by admission of the will or operation of the law. Although the Lutz Estate has legal title to the Farm, equitable title to it is vested in the Beneficiaries subject to divestment by sale under the will, which the Executor is authorized to do pursuant to the terms of the will. The Executor has the discretion either to sell the Farm and distribute cash or to distribute the Farm to the Beneficiaries as tenants in common.

5. Dr. Failor wishes to have his Accounts in the Plans purchase the Farm from the Lutz Estate. Accordingly, an administrative exemption is requested from the Department. The Farm will be purchased for investment purposes by the Accounts for a cash amount that is based upon its appraised value. On June 24, 1987, Mr. J.M. Rindfuss, C.R.E.A., an independent appraiser from Bucyrus, Ohio, placed the fair market value of the Farm at $175,000. Pursuant to the appraisal, Dr. Failor's Account in the Pension Plan will pay $113,750 for an undivided 65 percent interest in the Farm. Dr. Failor's Account in the Profit Sharing Plan will pay $61,250 for an undivided 35 percent interest in the Farm. The Accounts will not pay any fees or commissions in connection with the proposed transaction. In addition, the deed to the Farm will be recorded to reflect the respective interests of the Accounts in the Farm.

6. In summary, it is represented that the proposed transaction will satisfy the criteria of section 4975(c)(2) of the Code because: (a) Dr. Failor, as the Plans' trustee, has determined that the proposed acquisition of the Farm by the Accounts is an appropriate investment and is in the best interests of the Accounts; (b) the Farm represents less than 25 percent of the assets of each Account; (c) the fair market value of the Farm has been determined by an independent appraiser; and (d) Dr. Failor as the sole participant in the Plan will be the only person affected by the

[1] Since Dr. Failor is the sole shareholder of M.E.F., Inc. (the Employer) as well as the sole participant in the Plans, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

proposed tranaction and he desires that it be consummated.

Notice To Interested Persons

Because Dr. Failor is the sole shareholder of the Employer and the only participant in the Plans, it has been determined that there is no need to distribute the notice of pendency to interested persons. Accordingly, comments and requests for a public hearing are due within 30 days of the publication in the **Federal Register** of the notice of proposed exemption.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

Tai-Hee Kang, M.D., P.C. Employees Profit Sharing Plan (the Plan) Located in Charlevoix, MI

[Application No. D–7317]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed sale (the Sale) by the Plan of unimproved real estate located in Charlevoix, Michigan, to Tai-Hee Kang, M.D. (Dr. Kang), a disqualified person with respect to the Plan; provided that the terms and conditions of the Sale are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with total assets of $210,581.88 as of December 19, 1986. Dr. Kang, a radiologist, is the owner of the Plan sponsor and the sole participant in the Plan.[1] The Empire National Bank (the Bank) in Traverse City, Michigan is the trustee of the Plan.

2. The Property is identified as Lot 9 of Lakeview Subdivision, recorded in Liber 2 of Plats, page 130, Charlevoix County, Michigan. The Plan purchased the Property from an unrelated party on September 18, 1980 for $39,000. Since the acquisition of the Property, the Plan has expended $4,662.77 in property taxes and sewer assessments. The applicant represents that the Property has not been improved and that he has not used the Property during the holding period.

3. The applicant requests an exemption that will permit the Plan to sell the Property to Dr. Kang for cash in the amount of the Property's fair market value on the date of the Sale. The Bank has stated that the Sale will improve the Plan's liquidity affording an opportunity to seek investment alternatives offering a greater rate of return. Dr.Kang desires to construct a residence on the Property. He represents that no attempt has been made to sell the Property to an unrelated third party.

4. The Property was appraised as of July 7, 1987 by Loyd G. Kirby, M.A.I., a qualified independent real estate appraiser and President of Michigan Appraisal Company, Inc., in Clarkston, Michigan. The Applicant represents that he and Mr. Kirby are unrelated and are not engaged in any business dealings. Mr. Kirby appraised the fair market value of the Property at $60,000. The fair market value of the Property is greater than the Plan's costs and expenses for the acquisition and holding of the Property. The applicant represents that the Plan will incur no expenses or fees in connection with the Sale.

5. The Bank has determined that the Property's appreciation has slowed and that a possible depreciation may occur in the future because of geographical and legal constraints on construction in the area. The Bank opines that it is in the Plan's best economic interest to sell the Property at this time. The Bank considers that the increased liquidity in the Plan after the Sale will provide the opportunity for the Plan to invest in higher yielding securities.

6. In summary, the applicant represents that the proposed transaction meets the statutory criteria of section 408(a) because: (1) The Sale will be a one-time transaction for cash; (2) the Sale will improve the Plan's liquidity; (3) the Plan will receive the fair market value of the Property as determined by a qualified independent real estate appraiser; (4) the Plan will pay no expenses or fees in connection with the Sale; and (5) the Bank has determined that the Sale is in the best interest of the Plan.

Notice to Interested Persons: Because Dr. Kang is the sole Plan participant, the Department has determined that there is no need to distribute the notice of pendency of the proposed exemption to interested persons. Comments and requests for hearing must be received within 30 days of the date of publication of this notice of proposed exemption.

For Further Information Contract: Mrs. Betsy Scott of the Department, telephone (202) 523–8883. (That is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and respresentations contained in each application are true and complete, and that each application accurately describes all material terms of the transactions which is the subject of the exemption.

[1] Since Dr. Kang is the sole Plan participant, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II pursuant to section 4975 of the Code.

Signed at Washington, DC., this 23rd day of November, 1987.

Elliot I. Daniel,

Associate Director for Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 87-27330 Filed 11-25-87; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 87-102; Exemption Application No. D-6904 et al.]

Grant of Individual Exemptions; Medical Tree Pharmacy, Inc. Pension Plan, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 or 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Medical Tree Pharmacy, Inc. Pension Plan (the Plan) Located in Santa Cruz, CA

[Prohibited Transaction Exemption 87-102; Exemption Application No. D-6904]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale of a certain parcel of real property located in Kailua-Kona, Hawaii by the Plan to Medical Tree Pharmacy, Inc., the Employer,[1] provided that the terms and conditions of the sale are at least as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party on the date the transaction is consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 25, 1987 at 52 FR 32082.

For Further Information Contact: Ms. Linda M. Hamilton of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

Employee Retirement Plan of Consolidated Electrical Distributors' Inc. (the Plan) Located in Westlake, Village CA

[Prohibited Transaction Exemption 87-103; Exemption Application No. D-7029]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) The proposed cash purchase of certain improved real property by the Plan from Consolidated Electrical Distributors, Inc. (the Plan Sponsor), a party in interest with respect to the plan; and (2) the proposed lease of the property by the Plan to the Plan Sponsor, provided that the terms and conditions of the transactions are at least as favorable to the Plan as those obtainable from an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on september 23, 1987 at 52 FR 35773.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

McNichols Company Profit Sharing Plan and Trust (the Plan) Located in Cleveland, OH

[Prohibited Transaction Exemption 87-104; Exemption Application No. D-7159]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) The proposed loan of up to $800,000 by the Plan to Rockwall Properties; and (2) the guarantee of the loan by McNichols Company, provided that the terms and conditions of the transactions are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party on the date the loan is consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 23, 1987 at 52 FR 35773.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

The C.W. Houle, Inc. Profit Sharing Plan and Trust (the Plan) located in Minneapolis, MN

[Prohibited Transaction Exemption 87-105; Exemption Application No. D-7176]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed cash sale by the Plan to C.W. Houle, Inc. (the Employer), the sponsor of the Plan, of a certain parcel of improved real property (the Property), which is currently being leased to the Employer,

[1] Since Thomas and Helen Dembski are co-owners of the Employer, the only participants in the Plan, and are spouses, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

provided that the sales price is no less than the fair market value of the Property on the date of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 23, 1987 at 52 FR 35774.

For Further Information Contact: Mr. E.F. Williams of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 23rd day of November, 1987.

Elliot I. Daniel,

Associate Director for Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 87-27331 Filed 11-25-87; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 87-99]

Calendar Year 1986 Report of Closed Meeting Activities of Advisory Committees

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availablity of reports.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, the NASA advisory committees that held closed or partially closed meetings in 1986, consistent with the policy of 5 U.S.C. 552b(c), have prepared reports on activities of these meetings. Copies of the reports have been filed and are available for public inspection at the Library of Congress, Federal Advisory Committee Desk, Washington, DC 20540; and the National Aeronautics and Space Administration, Headquarters Information Center, Washington, DC 20546. The names of the committees are: NASA Advisory Council (NAC), NAC History Advisory Committee, NAC Life Sciences Advisory Committee, NAC Space Applications Advisory Committee, NAC Space and Earth Science Advisory Committee, NASA Wage Committee, Presidential Commission on the Space Shuttle Challenger Accident, and the National Commission on Space.

FOR FURTHER INFORMATION CONTACT: Kathryn Newman, Code NPN, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-2880).

Ann Bradley,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 87-27244 Filed 11-25-87; 8:45 am]

BILLING CODE 7510-01-M

[Notice 87-98]

NASA Advisory Council (NAC), Space Applications Advisory Committee (SAAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting cancellation.

Federal Register Citation of Previous Announcement: 52 FR 44236, Notice Number 87-94, November 18, 1987.

Previously Announced Times and Dates of Meeting: December 1, 1987, 8:30 a.m. to 4:30 p.m.

Meeting has been cancelled.

Contact Person for More Information: Mr. Joseph Alexander, Code E, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1410).

November 20, 1987.

Ann Bradley,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 87-27245 Filed 11-25-87; 8:45 am]

BILLING CODE 7510-01-M

[Notice 87-100]

NASA Advisory Council (NAC), Space Systems and Technology Advisory Committee (SSTAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee Ad Hoc Review Team on Technology for Low-Cost Expendable Launch Vehicles (ELVs).

Date and Time: December 17, 1987, 12:30 p.m. to 5 p.m.

ADDRESS: National Aeronautics and Space Administration, Ames Research Center, Building 200, Room 213, Moffett Field, CA 94035.

FOR FURTHER INFORMATION CONTACT: Mr. David Stone, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2737.

SUPPLEMENTARY INFORMATION: The NAC Space Systems and Technology Advisory Committee (SSTAC) was established to provide overall guidance to the Office of Aeronautics and Space Technology (OAST) on space systems and technology programs. Special ad hoc review teams were formed to address specific topics. The Ad Hoc Review Team on Technology for Low-Cost Expendable Launch Vehicles (ELVs), chaired by Mr. Marc Constantine, is comprised of nine members. The meeting will be open to the public up to the seating capacity of the room (approximately 20 persons including the team members and other participants).

Type of Meeting: Open.

Agenda: December 17, 1987

12:30 p.m.—Introduction.

12:45 p.m.—Review of NASA Transportation Technology Program.

3 p.m.—Discussion of Low-Cost Transportation Needs.

5 p.m.—Adjourn.

November 19, 1987.

Ann Bradley,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 87-27246 Filed 11-25-87; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this information collection must be submitted on or before December 28, 1987.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, (202) 786-0233, and Ms. Elaina Norden, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3201, Washington, DC 20503, (202) 395-7316.

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, (202) 786-0233, from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what the form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

Category Revisions

Title: Process of Application, Evaluation, Award, and Report of NEH Fellowship Programs: Fellowships for University Teachers and Fellowships for College Teachers and Independent Scholars.

Form Number: OMB No. 3136-0083.

Frequency of Collection: The program has a deadline once a year for applicants to apply for support. Applicants apply only when they need support.

Respondents: The respondents are scholars, writers, and teachers in the humanities.

Use: NEH uses the information solicited in the process of evaluation, award making, and final reporting for NEH Fellowships.

Estimated Number of Respondents: 6,650.

Estimated Hours for Respondents to Provide Information: At an average of 2.105 responses per respondent and 1.5 hours per response, the total number of hours from all respondents is 21,000.

Susan Metts,

Assistant Chairman for Administration.

[FR Doc. 87-27298 Filed 11-25-87; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL SCIENCE FOUNDATION

Forms Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information collection that will affect the public.

Agency Clearance Officer: Herman G. Fleming, (202) 357-9520.

OMB Desk Officer: Jim Houser, (202) 395-7316.

Title: 1989-1990 National Survey of Academic Research Instruments and Instrumentation Needs.

Affected Public: Non-profit institutions.

Number of Responses: 7,125 respondents: 7,125 burden hours.

Abstract: This study of academic scientific research instruments, will update measures of equipment quality, age, condition, utilization, and need obtained in two previous surveys (1983-84 and 1986-87). Changes and trends occurring over the period since the earlier studies will be documented, and reassessments made.

Dated: November 20, 1987.

Herman G. Fleming,

NSF Reports Clearance Officer.

[FR Doc. 87-27255 Filed 11-25-87; 8:45 am]

BILLING CODE 7555-01-M

Forms Submitted For OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information collection that will affect the public.

Agency Clearance Officer: Herman G. Fleming, (202) 357-9520.

OMB Desk Officer: Jim Houser, (202) 395-7316.

Title: Survey of Earned Doctorates Awarded in the United States.

Affected Public: Individuals.

Number of Responses: 31,000 respondents—10,300 burden hours.

Abstract: Persons with doctorate-level education are key members of the labor force in scientific, engineering and learned professions. Information on their demographic and educational background and immediate postdoctoral study or employment plans is essential for analyses of supply and demand. These data also report on the flow of women and minorities into the fields.

Dated: November 20, 1987.

Herman G. Fleming,

NSF Reports Clearance Officer.

[FR Doc. 87-27256 Filed 11-25-87; 8:45 am]

BILLING CODE 7555-01-M

Forms Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information collection that will affect the public.

Agency Clearance Officer: Herman G. Fleming, (202) 357-9520.

OMB Desk Officer: Jim Houser, (202) 395-7316.

Title: 1988 Survey of Science, Social Science, and Engineering Graduates.

Affected Public: Individuals.

Number of Responses: 20,100 respondents—2,512 burden hours.

Abstract: The information provided by this survey will enable the National Science Foundation to comply with the legislative requirement to collect information about scientists and technical personnel that may be used in policy and planning activities by industry, educational institutions, and government agencies.

Dated: November 23, 1987.

Herman G. Fleming,

NSF Reports Clearance Officer.

[FR Doc. 87-27257 Filed 11-25-87; 8:45 am]

BILLING CODE 7555-01-M

Materials Research Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Materials Research Advisory Committee.

Date: Monday through Wednesday, December 14–16, 1987.

Time: 8:30 a.m.–5:00 p.m., all three days.

Place: Room 543 (Monday) and Room 540 (Tuesday and Wednesday) National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Part Open (Monday 8:30 a.m.–11:00 a.m., Tuesday 1:00–5:00 p.m., Wednesday 8:30 a.m.–5:00 p.m.) Part Closed (Monday 11:00 a.m.–5:00 p.m., Tuesday 8:30 a.m.–1:00 p.m.).

Contact Person: Dr. Adriaan M. de Graaf, Acting Division Director, Division of Materials Research, Room 408, National Science Foundation, Washington, DC 20550.

Summary Minutes: May be obtained from the Contact Person, Dr. Adriaan M. de Graaf, at the above stated addresss.

Purpose of Committee: To carry out oversight review of the Metallurgy, Polymers, and Ceramics and Electronic Materials Programs.

To provide advice and recommendations concerning support of materials research.

Agenda: Monday, December 14, 1987 (OPEN)

8:30 a.m.—Oganizational Matters
9:00 a.m.—Staff Briefing on Programs:

- Metallurgy Programs
- Polymers Program
- Ceramics and Electronic Materials Program

Monday, December 14, 1987 (CLOSED)

11:00 a.m.—Oversight Review of the Metallurgy, Polymers, and Ceramics and Electronic Materials Programs.
5:00 p.m.—ADJOURNMENT

Tuesday Morning, December 15, (CLOSED)

8:30 a.m.—Continue Oversight Review of the Metallurgy, Polymers, and Ceramics and Electronic Materials Programs.
12:00 NOON—Working Lunch

Tuesday Afternoon, December 15 (OPEN)

1:00 p.m.—Status Report on Division Activities and Issues
2:00 p.m.—Briefing on FY 1988 Budget
2:30 p.m.—Briefing on Science and Technology Centers
3:30 p.m.—Briefing on Cross-Directorate Programs
4:30 p.m.—Formation and Charge of Subcommittees on:
Programs and Plans
Education and Human Resources
Operations and Budget
5:00 p.m.—ADJOURNMENT

Wednesday Morning, December 16 (OPEN)

8:30 a.m.—Meetings of Subcommittees
11:00 a.m.—Meeting with NSF Director
12:00 NOON—Working Lunch

Wednesday Afternoon, December 16 (OPEN)

1:00 p.m.—Briefing on Advanced Scientific Computing
2:00 p.m.—Recommendations to Division of Materials Research
Budget Priorities
Future Initiatives
Long-Range Planning
5:00 p.m.—ADJOURNMENT

Reasons for Closing: The meeting will consist of a review of grant and declination jackets that contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. The meeting will also include a review of the merit review documentation pertaining to the applications. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 87–27258 Filed 11–25–87; 8:45 am]

BILLING CODE 7555–01–M

President's Committee on the National Medal of Science; Meeting

The National Science Foundation announces the following meeting:

Name: President's Committee on the National Medal of Science.

Date: Friday, December 11, 1987.

Time: 9:00 AM–5:00 PM.

Place: Room 1243, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. James F. Hays, Executive Secretary, President's Committee on the National Medal of Science, National Science Foundation, Washington, DC 20550. Telephone 202/357–9443.

Purpose of Committee: To provide advice and recommendations to the President in the selection of the National Medal of Science recipients.

Reason for Closing: The nominations being reviewed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are within exemption 6 of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: The determination made on November 15, 1987 by the Director of the National Science Foundation pursuant to the provisions of Section 10(d) of Pub. L. 92–463.

M. Rebecca Winkler,

Committee Managment Officer.

November 20, 1987.

[FR Doc. 87–27259 Filed 11–25–87; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8768]

Draft Finding of No Significant Impact Regarding the Renewal of Source and Byproduct Material License SUA–1387 for Operation of Sequoyah Fuel Corp. Q-Sand/O-Sand Research and Development In-Situ Leach Project, Located in Converse County, WY

November 18, 1987.

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of draft finding of no significant impact.

(1) *Proposed Action.* The proposed administrative action is to renew Source and Byproduct Material License SUA–1387 authorizing Sequoyah Fuels Corporation (SEC) to continue operation of their Q-Sand/O-Sand Research and Development In-Situ Leach Operation in Converse County, Wyoming.

(2) *Reasons for Draft Finding of No Significant Impact.* An Environmental Assessment was prepared by the staff at the U.S. Nuclear Regulatory Commission, Uranium Recovery Field Office, Region IV. The Environmental Assessment performed by the Commission's staff evaluated potential impacts on-site and off-site due to radiological releases which may occur during the course of the operation. Documents used in preparing the assessment included operational data from the licensee's prior solution mining activities, the licensee's renewal application dated May 27, 1986 as supplemented by submittals dated June 15, 1987, and September 17, 1987, and the Environmental Impact Appraisals for the Q-Sand and the O-Sand prepared by the Commission staff and dated June 1981 and July 1984, respectively. Based on this assessment, the Commission has determined that no significant impact will result from the proposed action, and

therefore, an Environmental Impact Statement is not warranted.

The following statements support the draft finding of no significant impact and summarize the conclusions resulting from the environmental assessment.

A. The control and monitoring of the ground water at the SFC facility is sufficient to monitor operations and will provide a warning system that will minimize any impact on ground water. Furthermore, aquifer testing and the operational history of the project indicates that the production zone is adequately confined, thereby assuring hydrologic control of the mining solutions.

B. The solar evaporation ponds are lined to eliminate seepage of waste solutions; a monitor system below the liner should detect any leakage which may occur, and license conditions require that corrective action in response to a leak is promptly taken.

C. Radiological releases from the well field and processing plant will be very small (exposures which are small fractions of radiological exposure standards will result) and will be closely monitored to detect any problems.

D. The environmental monitoring program is comprehensive and will detect any radiological releases resulting from the operation.

E. Radioactive wastes, including those from the solar evaporation and water treatment tanks, will be minimal and will be disposed of at an USNRC licensed site in accordance with applicable Federal and State regulations.

F. The Q-Sand well field was restored at or below the restoration criteria and the O-Sand well field restoration criteria will be the actual baseline mean values, plus or minus two standard deviations.

In accordance with 10 CFR 51.33(a), the Director, Uranium Recovery Field Office, made the determination to issue a draft finding of no significant impact and to accept comments on the draft finding for a period of 30 days after issuance in the **Federal Register**.

This finding, together with the environmental assessment setting forth the basis for the finding, is available for public inspection and copying at the Commission's Uranium Recovery Field Office at 730 Simms Street, Golden, Colorado, and at the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

Dated at Denver, Colorado, this 17th day of November, 1987.

For the Nuclear Regulatory Commission.

Edward F. Hawkins,

Chief, Licensing Branch 1, Uranium Recovery Field Office, Region IV.

[FR Doc. 87-27332 Filed 11-25-87; 8:45 am]

BILLING CODE 7590-01-M

Biweekly Notice; Applications and Amendment to Operating Licenses Involving No Significant Hazards Considerations; Correction

On November 4, 1987, the **Federal Register** published the Biweekly Notice of Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations. A correction needs to be made to that notice:

On page 42359, third column, under "Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, * * *", the Date of Amendment Request "October 20, 1987" should read "October 16, 1987."

Dated at Bethesda, Maryland this 20th 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. 87-27333 Filed 11-25-87; 8:45 am]

BILLING CODE 7590-01-M

Arizona Public Service Co. et al. (Palo Verde Nuclear Generating Station, Unit 2; Confirmatory Order Modifying License (Effective Immediately)

I

Arizona Public Service Company, Salt River Project Agricultural Improvement and Power District, El Paso Electric Company, Southern California Edison Company, Public Service Company of New Mexico, Los Angeles Department of Water and Power, and Southern California Public Power Authority (collectively, the licensees) are the holders of Facility Operating License No. NPF-51 issued by the Nuclear Regulatory Commission (NRC/Commission) on April 24, 1986. The license authorizes the operation of the Palo Verde Nuclear Generating Station, Unit 2 in accordance with conditions specified therein. The facility is located on the licensees' site in Maricopa County, Arizona.

II

By letter dated October 8, 1987, the licensees informed the Commission that European reactor coolant pumps similar to the Palo Verde pumps in design and manufacture had exhibited shaft cracking. As a result, the licensees informed the Commission that they planned to inspect the shafts of the pumps at Palo Verde Unit 1 during the current refueling outage, October-December 1987. On October 21, 1987, the licensees reported that an ultrasonic inspection that began on October 14, 1987 revealed that cracks of varying depths and lengths had been identified on the shaft of the first two pumps. Subsequently, cracks were detected in a third pump. The depth of the cracks identified by the ultrasonic inspection of the Palo Verde Unit 1 shafts exceeded those reported for the European plants for the shafts which have not failed. In addition, the operating hours for the Palo Verde Unit 1 pumps were significantly less than the operating hours for the European pumps exhibiting the maximum reported crack depth.

No shaft failures have been experienced at Palo Verde. However, since the root cause of the current cracking phenomenon had not been identified and corrected, the NRC staff was concerned that the European data, as well as the information obtained from Palo Verde Unit 1, indicated an increased probability of a reactor coolant pump shaft failure, as well as a potential failure mode which could involve the failure of more than one reactor coolant pump shaft. Although the existing reactor protection system would shut the reactor down upon a pump shaft failure, the significantly increased probability of a shaft failure at this time had raised immediate concerns relative to the public health and safety.

On October 24, 1987, the licensees met with the NRC staff regarding this matter. In reponse to the staff's concerns, the licensees subsequently submitted a letter dated October 24, 1987 in which they committed to take a number of actions with respect to Palo Verde Unit 2.[1] On October 25, 1987 the Director, Office of Nuclear Reactor Regulation, issued a Confirmatory Order modifying the license of Palo Verde Unit 2 to include those commitments. Effective immediately, the licensees were ordered to implement an augmented vibration monitoring program for each of the four reactor coolant pumps that included the following elements:

1. Every four hours, monitor and record the vibration data on each of the four reactor coolant pumps,

2. On a daily basis, perform an evaluation of the pump vibration data

[1] Because Palo Verde Unit 1 is currently shut down until December 1987 and Palo Verde Unit 3 is a recently licensed facility which is limited to operation not to exceed 5% of full power, no action was necessary at that time for either Palo Verde Unit 1 or Palo Verde Unit 3.

obtained in 1 above, by using an appropriately qualified engineering individual,

3. When any one vibration monitor on the reactor coolant pumps indicates a vibration level of 8 mils or greater, the Nuclear Regulatory Commission shall be notified within four hours via the Emergency Notification System, and

4. When any one vibration monitor on the reactor coolant pumps indicates a vibration level of 10 mils or greater, within one hour, initiate action to place the unit in at least HOT STANDBY within the next six hours, and at least COLD SHUTDOWN within the following 30 hours.

III

Following the issuance of the October 25, 1987 Confirmatory Order, the staff further investigated the cracked reactor coolant pump shaft problem in a meeting on November 4, 1987 with representatives of the licensees and representatives from Germany involved with the evaluation of this problem in the related European pumps. As a result, the staff has concluded that the effectiveness of the vibration monitoring program set forth in the October 25, 1987 Confirmatory Order should be enhanced by including a spectral analysis of the vibration data to provide earlier warning trends if a crack has started and is propagating. In addition, based upon additional study by the licensees, the licensees and the staff gave concluded that crack initiation in the existing shafts is predominantly caused by the chrome plating in highly stressed areas of the pump shaft and that, therefore, modifications to the shaft are warranted to include removal of the chrome plating for extended shaft life.

In response to the above conclusions, in letters dated November 5 and 12, 1987, the licensees have committed to futher augment the reactor coolant pump monitoring program by including a spectral analysis of the data. The licensees have also committed to install modified shafts with the chrome plating removed during the next refueling outage scheduled to start in February 1988.

I find the licensees' additional commitments as set forth in their letters of November 5 and 12, 1987 acceptable and necessary and conclude that with the additional commitments the plant's safety is reasonably assured. In view of the foregoing, I have determined that public health and safety require that the licensees' additional commitments in the November 5 and 12, 1987 letters be confirmed by this Order. I have also determined that the public health and safety require that this Order be effective immediately.

IV

Accordingly, pursuant to sections 103, 161b and 161i of the Atomic Energy Act of 1954, as amended, and the Commission's regulation in 10 CFR 2.204 and 10 CFR Part 50, it is hereby ordered, effective immediately, that Facility Operating License No. NPF–51 is hereby modified to include the following commitments by the licensees.

A. The licensees shall implement an augmented vibration monitoring program for each of the four reactor coolant pumps that includes the following elements:

1. Every four hours, monitor and record the vibration data on each of the four reactor coolant pumps.

2. On a daily basis, perform an evaluation of the pump vibration data obtained in 1 above by using an appropriately qualified engineering individual.

3. When any one vibration monitor on the reactor coolant pump indicates a vibration level of 8 mils or greater, the Nuclear Regulatory Commission shall be notified within four hours via the Emergency Notification System. In addition, when the vibration on any pump exceeds 8 mils due to a shaft crack or unknown cause, within four hours the affected pump shall have its orbit and spectra continuously monitored and evaluated by an appropriately qualified individual.

4. When any one vibration monitor on the reactor coolant pumps indicates a vibration level of 10 mils or greater, within one hour, initiate action to place the unit in at least HOT STANDBY within the next six hours, and at least COLD SHUTDOWN within the following 30 hours. In addition the affected pump shall be secured after entering HOT STANDBY.

5. On a daily basis a spectrum analysis shall be performed on the reactor coolant pump shaft vibration data and shall be evaluated for trends by using an individual qualified in that technique. The evaluation shall consist of comparing the running speed (1xRPM) and twice running speed (2xRPM) spectral components to limits computed from the baseline vibration. The limits shall be based on the lowest of: (a) 1.6 times the baseline value, (b) the mean plus three standard deviations, (c) 2 mils for the 2xRPM component, or (d) 6 mils for the 1xRPM component.[2] When the amplitude exceeds any limit, further analysis shall be performed. This analysis shall consist of an inspection of the amplitude versus time plots for a steadily increasing trend, and a review of other plant data which might explain the change in amplitude. If it is confirmed that the trend is not caused by plant or pump conditions unrelated to a shaft crack, the trend shall be extrapolated manually and/or by computer to predict the time at which the vibration is expected to reach 10 mils. If the projected time for reaching 10 mils is one week or less, within one hour, initiate action to place the unit in at least HOT STANDBY within the next six hours, and at least COLD SHUTDOWN within the following 30 hours. In addition, the affected pump shall be secured after entering HOT STANDBY.

B. The licensees shall install modified reactor coolant pump shafts during the next refueling outage currently scheduled to start in February 1988 which include the modifications described in Figure DES–3 of the attachments to the licensees' November 5, 1987 letter.

The Regional Administrator, Region V, may relax or rescind, in writing, any of the above conditions upon a showing by the licensees of good cause.

V

Any person other than the licensees adversely affected by this Confirmatory Order may request a hearing within twenty days of its issuance. Any request for hearing shall be submitted to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies shall also be sent ot the Assistant General Counsel for Enforcement at the same address and the Regional Administrator, NRC Region V, 1450 Maria Lane, Suite 210, Walnut Creek, CA 94596. If such a person 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 shall address the criteria set forth in 10 CFR 2.714(d). A request for hearing shall not stay the immediate effectiveness of his confirmatory order.

If a hearing is requested by a person whose interests is adversely affected, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

[2] In the event new limit methods are chosen, they shall be evaluated by the licensees to assure that the new methods are equal to or better than the above method. The Commission shall be advised within one week if new methods are chosen.

Dated at Bethesda, Maryland this 19th day of November, 1987.

For the Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 87-27334 Filed 11-25-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-316]

Indiana and Michigan Power 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 an amendment to Facility Operating License No. DPR-74, issued to Indiana and Michigan Power Company, (the licensee) for operation of the Donald C. Cook Nuclear Plant, Unit 2, located in Berrien County, Michigan.

The amendment would revise the provisions in the Technical Specifications to extend 18-month surveillances from December 31, 1987 to the refueling outage currently scheduled to begin in early 1988 for response-time testing for reactor trip and engineering safety features (ESF) instrumentation; response testing of equipment to ESF signals; reactor vessel level indication calibration; auxiliary feedwater system testing, including channel functional testing of loss of main feedwater pump signal; and diesel generator testing, including relief value testing and essential service water valve testing. The licensee's application for amendment was dated October 28, 1987.

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 28, 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. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition, without requesting leave of the Board, up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the 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.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall 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 or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Kenneth E. Perkins, Jr.: (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Office of General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Charnoff, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037, attorney for the licensee.

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 October 28, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Maude Preston Palenski Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Dated at Bethesda, Maryland this 23rd day of November 1987.

For the Nuclear Regulatory Commission.

David L. Wigginton,

Acting Director, Project Directorate III-3, Division of Reactor Projects.

[FR Doc. 87-27335 Filed 11-25-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-72, issued to Florida Power Corporation

(the licensee), for operation of the Crystal River Unit 3 Nuclear Generating Plant located in Citrus County, Florida.

The amendment would change the surveillance requirement for the emergency diesel generator loading to reflect the diesel generator ratings and the present total load they would be expected to carry. In addition, the requirement for verifying the auto-connected loads would be updated to reflect the present loads.

The amendment would be in response to the licensee's application for amendment dated October 26, 1987, as amended October 29, 1987 and November 16, 1987 and supplemented by the licensee's letter dated November 20, 1987. It was requested that noticing of this amendment be treated as an exigency since insufficient time exists for the Commission's usual 30-day notice without extending the current shutdown.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards considerations. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The emergency diesel generators are required to have sufficient capacity and capability to ensure that design conditions are not exceeded as a result of anticipated operational occurrences and that the core is cooled and containment integrity and other vital functions are maintained in the event of postulated accidents. Upon a loss of offsite power at Crystal River Unit 3, two automatic fast start diesel generators will supply power. These diesel generators are sized so that either one can carry the required engineered safeguards loads. In order to ensure that this capability does not degrade, Technical Specification 4.8.1.1.2.d.4 established an 18-month surveillance requirement to test to greater than or equal to 3000 kw for greater than or equal to 60 minutes. The actual test load (approximately 3100 kw) was within the 30 minute rating (3001 to 3300 kw) of the diesel, but slightly lower than the highest calculated accident load of 3180 kw.

Since establishment of the TS surveillance requirement, other loads have been added to the emergency diesel generators and a more accurate load analysis has been performed. These factors have resulted in the "A" emergency diesel generator being required to operate at a slightly higher load (3248 kw), still within its 30 minute rating, in two low-probability accident scenarios. In both these scenarios, the largest load on the diesel generators, the emergency feedwater pump (EFW), will start but is not required for accident mitigation and will be manually tripped, bringing the accident load on the diesel generators within the 2000-hour rating (2750–3000 kw). Previously, the EFW pump was tripped automatically after 30 minutes. All other accident scenarios result in loads within the 200-hour rating of the diesel generators. The diesel generator manufacturer has indicated that the 30 minute rating is cumulative. Prior to continued engine operation, after engine operation in the 3001 kw to 3300 kw range for 30 minutes of total accumulated time, the engines must be disassembled and a special inspection made supplemental to the 18-month inspection currently required by Technical Specifications.

In order to reflect current loadings to ensure the diesel generators are capable of carrying their required engineered safeguards loads during the worst case loading condition, and to resolve the conflict between the inspection requirement and the surveillance requirement, the surveillance requirement is being modified to require that 5 minutes of this test will be performed in the 30 minute rating (3248 kw) and the remaining 55 minutes of the test will be performed in the 2000 hour rating (between 2750 and 3000 kw).

In addition, TS 4.8.1.1.2.d.5 is being updated to require verification that the auto-connected loads do not exceed the revised highest calculated accident load (3248 kw).

The licensee has committed to develop a long-range plan for increasing diesel generator loading margins by reducing loads further or increasing onsite AC power sources, and anticipates resolution by the end of the next scheduled refueling outage.

The change to the diesel generator loading is being made to accurately reflect the engineered safeguards load condition on the diesel generators. Testing at these loads for 5 minutes and at the 2000 hour rating for 55 minutes will provide assurance that the diesel generators are capable of supplying their required engineered safeguards loads, while remaining capable of supplying the required engineered safeguards loads for the length of the fuel cycle. Based on the above, this change will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated because the surveillance requirements for diesel generator loading will now accurately reflect the worst case loading condition on the diesel generator. As a result, testing at these loads will provide assurance that the diesel generators are capable of supplying their required engineered safeguards loads.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change to the Technical Specifications introduces no new mode of plant operation nor does it require physical modification.

3. Involve a significant reduction in a margin of safety. Although the maximum diesel generator load of 3248 kw is slightly higher, it is still within the 30 minute rating and does not result in a significant reduction in the diesel generator margin of safety. Since the proposed change accurately reflects the worst case loading condition on the diesel generators, testing at these loads and at the 2000 hour rating in the manner described above will provide greater assurance that the diesel generators are capable of supplying their required engineered safeguards loads, while remaining capable of supplying these loads for the length of the fuel cycle. A major load which would not be required in the scenario which causes the maximum diesel generator load will be tripped, thereby bringing the load to within the 2000 hour rating. In addition, the licensee has committed to take action by the end of the next scheduled refueling outage to increase diesel generator margins.

Accordingly, the Commission proposes to determine that this change does not involve significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration and Resources Management, U.S. Nuclear Regulatory

Commission, Washington, DC 20555, and should cite the publication date and page number of the **Federal Register** notice.

Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street, NW, Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By December 14, 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. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intevention 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 petitoner'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 pre-hearing 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 that 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.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards considerations, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves significant hazards considerations, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW. Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it it requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Herbert N. Berkow: Petitioners' name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to R.W. Neiser, Senior Vice President and General Counsel, Florida Power Corporation, P.O. Box 14042, St. Petersburg, Florida 33733.

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 October 26, 1987, as amended October 29, 1987 and November 16, 1987 and supplemented November 20, 1987, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and at the Local Public Document Room, Crystal River Library, 668 NW., First Avenue, Crystal River, Florida 32629.

Dated at Bethesda, Maryland, this 24th day of November, 1987.

For the Nuclear Regulatory Commission.

Harley Silver,

Project Manager, Project Directorate II-2, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 87-27447 Filed 11-25-87; 8:45 a m]

BILLING CODE 7590-01-M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Board of Directors Meeting

AGENCY: Pennsylvania Avenue Development Corporation.

ACTION: Notice of meeting.

SUMMARY: The Pennsylvania Avenue Development Corporation announces a forthcoming meeting of the Board of Directors.

DATE: The meeting will be held Wednesday, December 9, 1987, at 10:00 a.m.

ADDRESS: The meeting will be held at the Pennsylvania Avenue Development Corporation's Conference Room, 1331 Pennsylvania Avenue, NW. Suite 1220 North Building, Washington, DC.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with 36 Code of Federal Regulations Part 901, and is open to the public.

Date: November 16, 1987.

M.J. Brodie,

Executive Director.

[FR Doc. 87-27318 Filed 11-25-87; 8:45 am]

BILLING CODE 7630-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s):

(1) Collection title: Request to Non-railroad Employer for Information About Annuitant's Work and Earnings

(2) Form(s) submitted: RL-231-F

(3) Type of request: Extension of the expiration of a currently approved collection without any change in the substance or in the method of collection

(4) Frequency of use: On occasion

(5) Respondents: Businesses or other for-profit

(6) Annual responses: 4,000

(7) Annual reporting hours: 500

(8) Collection description: Under the Railroad Retirement Act, benefits are not payable if an annuitant works for an employer covered under the Act or last non-railroad employer. The request will obtain information on an annuitant's work and earnings from a non-railroad employer. The information will be used for determining whether benefits should be withheld.

Additional Information or Comments: Copies of the proposed forms and supporting documents can be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Elaina Norden (202-395-7316), Office of Management and Budget, Room 3002, New Executive Office Building, Washington, DC. 20503.

Pauline Lohens,

Director of Information Resources Management.

[FR Doc. 87-27239 Filed 11-25-87; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review of Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, DC 20549.

Extension

Rule 13a-17 and Form 10-C
File No. 270-206

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 13a-17 and Form 10-C (17 CFR 249.310c) (17 CFR 240.13a-17) promulgated under Securities Exchange Act of 1934 (15 U.S.C. 78 *et seq.*) requiring NASDAQ issuers to report changes in their corporate name and/or increases or decreases by 5% in the aggregate amount of securities outstanding. Two thousand six hundred (2,600) respondents incur a cumulative total of ten (10) burden minutes to comply with this rule.

Submit comments to OMB Desk Officer: Mr. Robert Neal, (202) 395-7340, Office of Information and Regulatory Affairs, Room 3228, NEOB, Washington, DC 20503.

Jonathan G. Katz,

Secretary.

November 20, 1987.

[FR Doc. 87-27323 Filed 11-25-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25144; File No. SR-CBOE-87-54]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Filing and Order Granting Accelerated Approval to Proposed Rule Change

On November 6, 1987, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to allow open trading to continue in expiring individual stock option series until 3:10 p.m. Chicago time, and to commence the closing rotation at the later of 3:10 p.m. or the time at which a closing price for the underlying stock is established.

Traditionally, options have been open for trading until ten minutes after the close of the primary market for the underlying securities. This has been the norm because it ordinarily permits accurate pricing relative to the last sales of the underlying securities. On the last trading day of an options series prior to its expiration, the Exchange generally has employed a closing rotation at the close of open trading. The time for such a closing rotation was 2:00 p.m. Chicago time until 1983. In 1983, the Exchange set the time for the closing rotation in expiring index options series at 3:00 p.m. Chicago time, and in 1984, the Exchange conformed the time for the closing rotation in expiring individual stock options series to the 3:00 p.m. index option closing time. Later in 1984, the closing rotation for expiring individual stock options was amended to commence after the final price of the underlying stock is established; closing rotations in expiring index options were eliminated. At that time, however, the time at which open trading in expiring individual stock options ceased (3:00 p.m. Chicago time) was not changed.

In a recently approved filing, File No. SR-CBOE-87-43, approved in Securities Exchange Act Release No. 25042 (October 16, 1987), 52 FR 39735, the Exchange proposed to continue open trading until the commencement of the closing rotation in expiring individual options. The Exchange now proposes to continue open trading in expiring individual stock option series until 3:10 p.m. Chicago time and to commence the closing rotation at 3:10 p.m. or the time

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1986).

at which a closing price for the underlying stock is established, whichever is later. The Exchange, therefore, proposes to amend Interpretations and Policies .03 of CBOE Rule 6.2 (Trading Rotations) in order to conform it to Pacific Stock Exchange ("PSE") Rule VI, Sec. 36, Commentary .01(c) which sets 3:10 p.m. Chicago time as the earliest time such a closing rotation will commence. The proposed change will make the rules of the CBOE and the PSE uniform, and will give member firms a time certain for entering closing orders.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6,[3] and the rules and regulations thereunder. The Commission believes that allowing open trading in expiring individual options to continue until 3:10 p.m. Chicago time and commencing the closing rotation at the later of 3:10 or the time at which a closing price for the underlying stock is established will permit the CBOE to conform its rules to the rules of the PSE. The Exchange's proposal also should have a beneficial impact on the execution of investors' orders by giving member firms a time certain for entering closing orders in a particular expiring option series.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication in the **Federal Register** in that the proposed rule is substantively identical to a rule of the PSE. The Exchange has stated that the other options exchanges may also be considering a similar rule change. Thus, approval of the proposal will eliminate possible investor confusion arising from different procedures at different options exchanges and will provide guidance to investors in submitting their options orders in individual equity options series that are scheduled to expire on Saturday, November 21, 1987.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposal rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by December 18, 1987.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[4] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Dated: November 20, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-27324 Filed 11-25-87; 8:45 am]

BILLING CODE 8010-01-M

[3] 15 U.S.C. 78f (1982).

[4] 15 U.S.C. 78s(b)(1) (1982).

[5] 17 CFR 200.30-3(a)(12) (1986).

[Release No. 34-25151; File No. SR-CBOE-87-40]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc., Order Approving Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange"), on August 31, 1987, submitted to the Securities and Exchange Commission ("Commission") a proposed rule change to adopt "Chinese Wall" provisions applicable to designated primary market markers. The proposed rule change was published for comment in Securities Exchange Act Release No. 34-24935 (September 22, 1987), 52 FR 36482. No comments were received.

The CBOE proposal includes a new Rule 8.14 limiting affiliations of designated primary market markers ("DPMs"), as well as "Chinese Wall" guidelines which, if adhered to, provide an exemption from Rule 8.14. The Exchange's DPM program was approved by the Commission on September 22, 1987,[3] and is designed to enhance liquidity and trading interest in certain new or thinly-traded options products by assigning DPMs to those products. In connection with final approval of the DPM program, the Commission approved on an accelerated basis and for a 90-day period "Chinese Wall" provisions identical to those described herein.[4] At the same time, the Commission published, as a separate filing, a notice requesting comment on permanent approval of the same provisions. Today, the Commission grants permanent approval to the CBOE's DPM "Chinese Wall" provisions.

Proposed Rule 8.14 would prevent any organization affiliated with a DPM from purchasing or selling an option in a DPM's appointment except to reduce or liquidate positions and after appropriate identification and floor official approval of the transaction. Guidelines following Rule 8.14 provide an exemption from Rule 8.14 for firms that implement specified "Chinese Wall" procedures.

The "Chinese Wall" guidelines call for (1) separate organization of the DPM and the affiliated firm, including separate books and records, separate financial compliance, no common control over the DPM's conduct, and only such general managerial oversight as not to conflict with or compromise the DPM's market marker responsibilities; and (2) procedures to prevent the use of material non-public corporate or market information to influence the DPM's conduct and to avoid the misuse of DPM market information to influence the affiliated firm's conduct. Under the proposal, the firm seeking the exemption must submit to the Exchange a written statement setting forth: (1) The manner of complying with the foregoing guidelines; (2) the firm individuals responsible for maintenance and surveillance of the procedures; (3) that the DPM may not give special information to a broker affiliated with the firm; (4) that the firm must disclose its affiliation with a DPM if it popularizes a security in which the DPM is registered as such; (5) that the firm will file information and reports required by the Exchange; (6) that appropriate remedial actions will be taken for a breach of procedures; (7) the procedures designed to ensure a separation of firm proprietary clearing

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1987).

[3] Securities Exchange Act Release No. 24934 (September 22, 1987), 52 FR 36122.

[4] Securities Exchange Act Release No. 24932 (September 21, 1987), 52 FR 36121. The Commission understands that to date no integrated firm has sought designation as a DPM. November 13, 1987 telephone conversion between Frederic M. Krieger, Associate General Counsel, CBOE, and Joseph M. Furey, Branch Chief, Division of Market Regulation, SEC.

activity so that the "Chinese Wall" is not compromised; and (8) that no individual associated with the firm may trade as market marker in a security on which the DPM has an appointment.

Finally, the proposal would require that the firm compliance officer be notified if the DPM receives information which the guidelines prohibit, and what action should be taken in such a situation, including giving up the appointment or temporarily providing a replacement DPM. The compliance officer would be required to keep a written record of each such incident, and provide such records to the Exchange for review. No exemption would be effective until granted by the Exchange in writing.

The Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 [5] and the rules and regulations thereunder. The proposed "Chinese Wall" provisions are designed to ensure that a DPM will not have access to material non-public information possessed by its affiliated firm, and that a firm will not misuse its DPM's non-public information. The proposal also includes detailed procedures to be followed in the event that a DPM becomes "contaminated" by gaining access to information meant to be excluded by the "Chinese Wall." Moreover, the Commission notes that the "Chinese Wall" provisions described above are substantially similar to those in place at other exchanges.[6] Finally, the provisions, while fulfilling a prophylactic function, will enable additional capital to be infused into DPM firms through mergers, acquisitions, or other affiliations with other broker-dealers.

It therefore is ordered, pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: November 23, 1987.

[FR Doc. 87-27325 Filed 11-25-87; 8:45 am]

BILLING CODE 8010-01-M

[5] 15 U.S.C. 78f (1982).

[6] *See, e.g.*, American Stock Exchange Rule 193; New York Stock Exchange Rule 98(c); Philadelphia Stock Exchange Rule 1020(e).

[7] 15 U.S.C. 78s(b)(2) (1982).

[Release No. 34-25146; File No. SR-NSCC-87-08]

Self-Regulatory Organizations; Order Approving Proposed Rule Change of the National Securities Clearing Corporation

On September 16, 1987, the National Securities Clearing Corporation ("NSCC") filed a proposed rule change under section 19(b) of the Securities Exchange Act of 1934 ("Act") that would establish the Mutual Fund Settlement, Entry and Registration Verification Service ("Fund/Serv") as a permanent service of NSCC. Notice of the proposal was published in Securities Exchange Act Release No. 24997 (October 8, 1987), 52 FR 38294 (October 15, 1987). No comments were received. As discussed below, the Commission has determined to approve the proposed rule change.

I. Introduction

On December 31, 1985, NSCC filed a proposed rule change that established, among other things, Fund/Serv as a one-year pilot.[1] During the pilot period, NSCC proposed to limit participation to no more than four broker-dealer members and five Fund/Serv members.

Because of substantial interest in Fund/Serv by the investment company community, NSCC, on April 3, 1986, filed a proposed rule change that, among other things, sought to expand the number of participants. The proposal, as amended on June 30, 1986, authorized NSCC to expand Fund/Serv membership, under a specific timetable, to meet investment company demand for access to the Fund/Serv system. The proposal also revised NSCC's applicant and continuing membership standards for Fund/Serv members. On February 10, 1987, the Commission approved the filing and the continuation of Fund/Serv on a pilot basis through January 31, 1988.[2]

II. Description

Fund/Serv is a centralized, automated processing system for mutual fund purchases and redemptions. Each day, NSCC collects mutual fund purchase and redemption orders from broker-dealer members for delivery to mutual fund processors. NSCC then transmits all data submitted in an acceptable form to the appropriate Mutual Fund Processor. Mutual Fund Processors also may originate orders received from NSCC members outside of Fund/Serv for the purpose of confirmation and settlement within the Fund/Serv system.

Members must confirm all trades submitted through the system in a timely manner or the trades are rejected. A member, however, may resubmit a rejected trade up to six months after the trade date ("T"). Once a trade is confirmed, the mutual fund transaction settles through NSCC's existing settlement system. NSCC, however, does not guarantee mutual fund transactions and, to the extent one side fails to pay for a transaction, the contra-side would be required to return to NSCC any funds received.

Mutual fund purchases automatically settle at NSCC on T+5. The settlement cycle for mutual fund liquidations, however, depends on whether the securities are registered in street name or in the customer's name. If the securities are registered in street name, settlement occurs on T+5. If the securities are registered in the customer's name, the system delays settlement until the Mutual Fund Processor releases the transaction. Fund/Serv also enables a member to submit registration instructions to a Mutal Fund Processor for orders confirmed ansd settled through Fund/Serv.[3]

NSCC currently has 18 funds and 27 broker-dealers participating in Fund/Serv. Volume in Fund/Serv averages over 4,000 confirmed transactions per day and, during peak periods in April, 1987, averaged over 7,500 trades per day. The average daily value of confirmed trades is approximately $100 million, with a monthly high average of over $190 million a day in April, 1987.

III. NSCC's Rationale

NSCC believes that the proposal is consistent with the Act because it facilitates the prompt and accurate clearance and settlement of mutal fund transactions. With 18 funds and 27 broker-dealers participating Fund/Serv, NSCC believes that Fund/Serv has achieved widespread industry acceptance as the central processing system for mutual fund transactions.

NSCC also believes that its financial and operational standards and its periodic reports and early warning surveillance program minimize financial exposure the NSCC and are consistent with the Act. NSCC has operated, expanded and enhanced Fund/Serv over

[1] *See* File No. SR-NSCC-85-09, Securities Exchange Act Release No. 22928 (February 20, 1986), 51 FR 6954 (February 27, 1986).

[2] *See* File No. SR-NSCC-86-05, Securities Exchange Act Release No. 24088 (February 10, 1987), 52 FR 5228 (February 19, 1987).

[3] For a more extensive explanation of the Fund/Serv system, *see, Id.* at 2 and Securities Exchange Act Release No. 22928 at 1 (February 20, 1986), 51 FR 6954 (February 27, 1986).

the past 20 months as a pilot program with no oeprational problems in providing services to participants.

IV. Discussion

The Commission believes that NSCC's proposal is consistent with the Act and will promote the prompt, accurate and safe clearance and settlement of securities transactions. Moreover establishing Fund/Serv as a permanent service allows NSCC to bring all qualified broker-dealers and mutual funds into this centralized automated system for processing mutal fund transactions.

The proposal makes Fund/Serv, the first centralized automated processing system for mutal fund purchases and redemptions, available to National Clearance and Settlement System ("National System") clearing participants. Historically, broker-dealers handling customer orders for securities processed by more than one fund agent had to establish communication and settlement arrangements with each such agent and similarly, each fund agent had to establish arrangements with brokers handling orders for the agent's funds. The absence of centralized, efficient facilities and uniform standards for processing mutual fund transactions increased brokers' risks of failed deliveries, inadequate transaction records and operational errors. In contrast to that history, Fund/Serv provides broker-dealers and fund processors a centralized automated mechanism for transmitting purchase and redemption orders, settling those transactions and reducing the financial risks of broker-dealers and fund processors.

Fund/Serv has grown and developed over the past 20 months as a pilot program with no operational problems. Since Fund/Serv's inception in March, 1986, Fund/Serv has expanded from one mutual fund and two broker-dealers to 18 fund participants and 27 broker-dealer participants. Making Fund/Serv a permanent program will enhance the goals embodied in Section 17A: efficient, effective and safe securities processing through centralized, automated facilties. By implementing Fund/Serv, National System clearing participants are able to process and settle transactions in corporate, municipal and investment company securities through the National System.

V. Conclusion

For the reasons stated above the Commission finds that the proposal is consistent with the Act and, in particular, with section 17A of the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR–NSCC–87–8) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: November 20, 1987.

FR Doc. 87–27326 Filed 11–25–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–16139/File No. 812–6808]

North American Life and Casualty Company et al.; Application for Exemption

November 19, 1987.

Action: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicants: North American Life and Casualty Company (the "Company"), NALAC Variable Account A, ("Variable Account") NALAC Financial Plans, Inc. and Franklin Investment Trust ("Fund").

Relevant 1940 Act Sections and Rules: Exemption requested under Section 6(c) from Sections 2(a)(32), 2(a)(35), 9(a), 13(a), 15(a), 15(a), 15(b), 22(c), 26(a), 27(c)(1), 27(c)(2), and 27(d) of the Act and Rules 6e–2(a)(2), 6e–2(b)(1), 6e2(b)(12), 6e–2(b)(13), 6e–2(b)(15), 6e2(c)(4), and 22c–1 thereunder.

Summary of Application: Applicants seek the relief necessary to permit (1) the Variable Account to hold shares of underlying mutual funds under an open account arrangement without the use of stock certificates and without the Company acting as trustee or custodian pursuant to a trust indenture; (2) the deduction of the mortality and expense risk charge from the assets of the Variable Account; (3) the deduction of the cost of insurance and use of 1980 Commissioners' Standard Ordinary Mortality Tables; (4) the deduction of the Deferred Issue Charge, and (5) the use of the same separate account and underlying funds by Applicant's single premium variable life contract and flexible premium variable life contract and the use of the same underlying funds by applicants' proposed variable annuity contract ("mixed funding").

Filing Date: The application was filed on July 30, 1987 and amended on October 29, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the requested exemption will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any request must be received by the SEC by 5:30 p.m., on December 14, 1987. Request a hearing in writing, giving the nature of your interest, the reasons for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, in the case of an attorney-at-law, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

Addresses: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Applicants, 1750 Hennepin Avenue, Minneapolis, Minnesota 55403 and Franklin Investment Trust, 777 Mariners Island Boulevard, San Mateo, California 94404.

For Further Information Contact: Staff Attorney Clifford E. Kirsch at (202) 272–3032 of Special Counsel Lewis B. Reich at (202) 272–2061, Office of Insurance Products and Legal Compliance, Division of Investment Management.

Supplementary Information: Following is a summary of the application. The complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's Commercial Copier at (800) 231–3282 (in Maryland (301) 253–4300).

Applicants' Representations and Arguments

Custodianship

1. Applicants request an exemption from sections 26(a) and 27(c)(2) of the Act and Rule 6e–2 to the extent necessary to permit the Variable Account to hold shares of underlying mutual funds under an open account arrangement without the use of stock certificates and without the Company acting as trustee or custodian pursuant to a trust indenture. Applicants represent that they will meet the conditions of the proposed amendments to Rule 6e–2(b)(13)(iii) (Investment Company Act Rel. No. 14421, March 15, 1985).

The Mortality and Expense Risk Charge

2. Applicants propose to deduct from each subaccount of the Variable Account a mortality and expense risk charge which is equal on an annual basis to .60% of the average daily net asset value of the subaccount.

3. Applicants assert that the mortality and expense risk charge is within the range of industry practice for comparable variable life insurance contracts.

Cost of Insurance and Use of 1980 Commissioners' Standard Ordinary Mortality Tables

4. Applicants request an exemption from sections 27(a) and Rule 6e–2(b)(1), (b)(13) and (c)(4) on the same terms specified in Rule 6e–2(b)(13) and 6e–2(c)(4) except that life expectancy and the deduction for the cost of insurance in determining what is deemed to be sales load shall be based upon the 1980 Commissioners' Standard Ordinary Mortality Tables ("1980 CSO Tables"). Applicants state that the use of the 1980 CSO Tables generally results in lower cost of insurance deductions than the use of the 1958 CSO Table.

5. Applicants assert that the exemptive relief provided by Rule 6e–2(b)(13)(iii) is broad enough to permit a deduction from the Variable Account for the cost of insurance. Nevertheless, Applicants request exemption from sections 26(a)(2) and 26(c)(2) of the Act.

Deferred Issue Charge

6. Applicants state that when the single premium is received a Deferred Issue Charge is accrued. The Deferred Issue Charge is for premium taxes, sales charge and policy issue charge. The Company deducts the Deferred Issue Charge in ten equal annual deductions on succeeding policy anniversaries for the first ten contract years. If the owner surrenders the contract before the full amount is deducted, the uncollected portion of this charge is deducted from the account value.

7. Applicants request exemption from sections 2(a)(32), 2(a)(35), 22(c), 26(a), 27(c)(1), 27(c)(2) and 27(d) of the Act and Rules 6e–2(b)(1), (b)(12), (b)(13), (c)(4) and 22c–1, thereunder, to the extent necessary and appropriate to permit the deduction of the Deferred Issue Charge in the manner described above.

8. Applicants assert that relief is appropriate because imposition of this charge in the form of a deferred charge is more favorable to the contractowner than a charge that is initially deducted entirely from the single premium. Applicants state that under the deferred charge all of the premium will be invested and it is possible that the cost of insurance may be lower because the net amount at risk may be less.

Mixed Funding

9. Applicants propose that the assets of the Variable Account be derived in part from the sale of single premium variable life insurance contracts which meet the requirements of Rule 6e–2 and in part from the sale of flexible premium variable life insurance contracts which meet the requirements of Rule 6e–3(T).

10. Applicants state that while funding of the Variable Account in part from the sale of such flexible premium life insurance contracts would not be permitted under Rule 6e–2 (a)(2) and (b)(15) as presently in effect, it would be permitted under the proposed amendments to Rule 6e–2 and under Rule 6e–3(T).

11. Applicants assert that the interests of single premium and flexible premium variable life contractowners, the Company's interests with respect to the two types of contracts, and the regulatory framework for the two types of contracts are sufficiently parallel that funding both the contracts through a single separate account should not prejudice any contractowner. Furthermore, the increased pooling, diversification, and scale economies in expenses realized from the use of a single separate account should benefit both types of contractowners. Therefore, the funding of both types of life insurance contracts should be permitted.

12. Applicants propose that the current Fund, as well as future eligible funds, which are to be used as the underlying investment for the single premium variable life insurance contract also be used as the underlying investments for the flexibile premium variable life insurance contract. Applicants also propose to offer a variable annuity, through a different separate account which will utilize the same underlying funds. Applicants propose to use the same underlying funds for any future separate accounts established by the Company or by any affiliated life company which will fund variable life insurance contracts or variable annuity contracts.

13. Applicants request an exemption from paragraph (b)(15) of Rule 6e–2 and sections 9(a), 13(a), 15(a) and 15(b) of the Act to the extent necessary to permit Applicants, as well as any future separate accounts of the Company or an affiliate, to use the same underlying fund and to rely on the relief provided under Rule 6e–2(b)(15) even though such investment may, in addition to the Variable Account, be offered to separate accounts of the Company or other affiliated life insurers offering variable annuity contracts, or scheduled or flexible premium variable life insurance contracts. Applicants assert that mixed funding should benefit owners of variable contracts by eliminating a significant portion of the costs of establishing and administering separate funds, allowing for the development of larger pools of assets resulting in greater cost efficiencies enabling the Company and its affiliates to offer a variety of variable contracts, which should result in lower contract charges. The Applicants represent that as a result of mixed funding no underlying investment will be managed with the intent to favor one variable life or annuity product over another.

Applicants' Condition

Applicants state that they will comply with the following conditions:

1. A majority of the Board of Directors/Trustees ("Board") of any Eligible Fund covered by this exemptive request shall consist of persons who are not interested persons of the Applicants, as defined by the Act.

2. The Board will monitor for the existence of any material irreconcilable conflict between the interests of all contractowners of all separate accounts. An irreconcilable material conflict may arise for a variety of reasons, including: (a) An action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance tax, or securities laws or regulations, or a public ruling, private letter ruling, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of any Eligible Fund or series of an Eligible Fund are being managed; (e) a difference in voting instructions given by variable annuity contractowners and variable life insurance contractowners or by contractowners of different life insurance companies; or (f) a decision by an insurer to disregard the voting instructions of contractowners.

3. Life insurance companies and the Investment Adviser of any Eligible Fund will report any potential or existing conflicts to the Eligible Fund's Board. Life insurance companies will be responsible for assisting the Board in carrying out its responsibilities by providing the Board with all information reasonably necessary for the Board to consider any issues raised including information as to a decision by an insurer to disregard voting instructions or contractowners. The responsibility to report such information and conflicts and to assist the Board will be contractual obligations of all insurers investing in an Eligible Fund under their agreements governing participation in the fund.

4. If it is determined by a majority of the Board of an Eligible Fund or a majority of its disinterested trustees that a material irreconcilable conflict exists, the relevant life insurance companies shall, at their expense, take whatever steps are necessary to remedy or eliminate the irreconcilable material

conflict, which steps could include: (a) Withdrawing the assets allocable to some or all of the separate accounts from the Eligible Fund or any series of an Eligible Fund and reinvesting such assets in a different investment medium, including another series of such Eligible Fund, or submitting the question of whether such segregation should be implemented to a vote of all affected contractowners and, as appropriate, segregating the assets of any particular group (i.e., annuity contractowners, life insurance contractowners, or variable contractowners of one or more life insurance companies) that votes in favor of such segregation, or offering to the affected contractowners the option of making such a change; and (b) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of a life insurance company's decision to disregard contractowner voting instructions and that decision represents a minority position or would preclude a majority vote, the life insurance company may be required, at Applicant's election, to withdraw its separate account's investment in the fund, and no charge or penalty will be imposed against a separate account as a result of such a withdrawal. The responsibility to take remedial action in the event of a Board determination of an irreconcilable material conflict and to bear the cost of such remedial action shall be a contractual obligation of all life insurance companies under their agreements governing participation in a fund and those responsibilities will be carried out with a view only to the interests of their contractowners. For purposes of this condition (4), a majority of the disinterested members of the Board shall determine whether or not any proposed action adequately remedies any irreconcilable conflict, but in no event will any Eligible Fund be required to establish a new funding medium for any variable contract. No life insurance company shall be required by this condition (4) to establish a new funding medium for any variable contract if an offer to do so has been declined by vote of a majority of affected contractowners.

5. The Board's determination of the existence of an irreconcilable material conflict and its implications shall be made known promptly to all life insurance companies.

6. Life insurance companies shall provide pass-through voting privileges to all variable contractowners so long as the Commission continues to interpret the Act to require pass-through voting privileges for variable contractowners. Life insurance companies shall be responsible for assuring that each of their separate accounts participating in a fund calculates voting privileges in a manner consistent with other life insurance companies. The obligation to calculate voting privileges in a manner consistent with all other separate accounts investing in a fund shall be a contractual obligation of all life insurance companies under their agreements governing participation in an Eligible Fund. Life insurance companies will vote shares, for which they have not received voting instructions as well as shares attributable to them, in the same proportion as they vote shares for which they have received instructions.

7. All reports received by the Board of potential or existing conflicts, determining the existence of a conflict, notifying life insurance companies of a conflict, and determining whether any proposed action adequately remedied a conflict, will be properly recorded in the minutes of the Board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-27327 Filed 11-25-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24503]

Filings Under the Public Utility Holding Company Act of 1935 ("Act"); AP Propane, Inc., et al.

November 19, 1987.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by December 14, 1987 to the Secretary, Securities and Exchange Commission, Washington, DC. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issue of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

AP Propane, Inc. (31-829)

AP Propane, Inc. ("AP Propane"), P.O. Box 858, Valley Forge, Pennsylvania 19482, has filed an application pursuant to section 2(a)(4) of the Act for an order declaring it not to be a gas untility company.

Section 2(a)(4) defines a gas utility company as "any company which owns or operates facilities used for the distribution at retail (other than distribution only in enclosed portable containers * * *) of natural or manufactured gas for heat, light, or power." That section also provides that the Commission may declare a company not to be a gas utility company if it "finds that (A) such company is primarily engaged in one or more businesses other than the business of a gas untility company, and (B) by reason of the small amount of natural or manfactured gas distributed at retail by such company it is not necessary in the public interest or for the protection of investors or consumers that such company be considered a gas utility company for the purposes of [the Act] * * *."

On June 10, 1987, AP Propane acquired the stock of Cal Gas Corporation ("Cal Gas") and merged its operations into AP Propane on July 27, 1987. By prior Commission order, Cal Gas was declared not to be a gas utility company under section 2(a)(4) of the Act (HCAR No. 24407, June 10, 1987). AP Propane now requests an order under section 2(a)(4) relating to the merged company.

AP Propane is a Delaware corporation, now merged with Cal Gas, the common stock of which is owned by AmeriGas, Inc., The Prudential Insurance Company of America, and Pruco Life Insurance Company. It now does business in 39 states under the trades names AmeriGas LP-Gas Products and Cal Gas. During 1986, AP Propane, on a merged basis, served approximately 409,000 customers from 261 retail outlets and sold 368 million gallons of propane. In 1986, AP Propane had merged revenues of approximately

$845 million, of which less than 2.12% constituted metered sales and sales to multiple customer facilities. Priore to the merger, the business operations of AP Propane were similar to those of Cal Gas.

AP Propane was and continues to be engaged primarily in the business selling propane. It competes with most of the largest propane distributors in its operating territories, although, in many cases, small local independent dealers represent the primary competition. AP Propane delivers propane to most of its retail customers by local delivery truck or cylinders. In the case of cylinder service, typically the company fills a 100-pound cylinder, which is either owned by or leased to the customer. Under the bulk delivery method, a truck with a 2,200 gallon capacity delivers propane to a tank located on the customer's premises, which usually serves only that customer. The tank usually has a capacity of 500 gallons, but the size may vary depending upon the customer's usage.

For the vast majority of its business, AP Propane distributes propane in enclosed portable containers, often by "bobtail" truck and serves a single tank supplying a single customer. The distibution of propane in enclosed portable containers is not included in the business of a gas utility company under section 2(a)(4) of the Act; however, as described above, a relatively small portion of AP Propane's business involves supplying propane to central storage tanks serving multiple customers through underground pipelines or service piping. It is stated that sales to such multiple customers facilties accounted for an insignificant percentage of AP Propane's business, prepresenting less than 2.12% of AP Propane's total 1986 merged revenues.

American Electric Power Company, Inc. (70-5943)

American Electric Power Company, Inc. ("AEP"), 1 Riverside Plaza, Columbus, Ohio, 43215, a registered holding company, has filed a post-effective amendment to its declaration pursuant to sections 6(a) and 7 of the Act and Rule 50(a)(5) thereunder.

By supplemental order dated January 3, 1986, (HCAR No. 23980) and various prior orders, AEP was authorized to issue and sell from time to time through December 31, 1987, up to 44 million shares of its common stock, $6.50 par value, pursuant to its Dividend Reinvestment and Stock Purchase Plan, as amended ("Plan"). A total of 40,938,533 shares was issued and sold through September 30, 1987. AEP now requests an extension, from December 31, 1987 to December 31, 1990, of the period during which the remaining shares of common stock previously authorized may be issued and sold, pursuant to the Plan.

New England Electric System, et al. (70-6711)

New England Electric System ("NEES"), a registered holding company, and its energy management services subsidiary, NEES Energy, Inc. ("Energy"), both located at 25 Research Drive, Westborough, Massachusetts 01582, have filed a post-effective amendment to their application-declaration pursuant to sections 6(a), 6(b), 7, 9(a), 10, and 12 of the Act and Rule 45 thereunder.

By order dated November 19, 1982 (HAR No. 22719) this Commission authorized the organization of Energy to provide Energy Management Services ("EMS") to reduce the total costs of energy consumption by the customer over the term of a contract. Energy was initially financed through the acquisition by NEES of shares of Energy's common stock for $100,000 and capital contributions not to exceed $1,900,000. Subsequently, by order dated March 22, 1985 (HCAR No. 23639), NEES was authorized to provide up to an additional $23 million to Energy in the form of capital contributions or subordinated noninterest-bearing loans, thus increasing the total authorized capitalization of NEES Energy to be provided by NEES to $25 million. By order dated December 17, 1985 (HCAR No. 23951), the Commission authorized Energy to borrow up to $10 million under a Credit Agreement with The Bank of Nova Scotia and The Bank of Nova Scotia National Limited provided, however, that the aggregate of funds provided to Energy from NEES and the bank not exceed $25 million outstanding at any time.

Authority is also requested for Energy to invest and/or participate in qualifying cogeneration facilities and small power production facilities as defined in the Public Utility Regulatory Policy Act of 1978 ("PURPA") and the rules and regulations promulgated thereunder by the Federal Energy Regulatory Commission ("FERC"). Such cogeneration facilities may be located in any geographic area, but participation by Energy in small power production facilities will be limited to the service territories of the member utilities of the New England Power Pool.

Applicants request authority for Energy to make investments, capital expenditures and/or commitments up to a total of $25 million through 1991 in connection with its EMS activities, and up to $225 million for its participation in qualifying facilities. Authority is also requested through 1991 for NEES to provide funds to Energy through the acquisition of common stock, capital contributions, noninterest-bearing loans and/or advances and guarantees up to a total of $250 million less the amount of outstanding loans to Energy from banks or other sources.

It is stated that Energy may invest or participate directly in specific qualifying facilities on a project-by-project basis with one or more nonaffiliated companies by acquiring equity interests in corporations, partnerships, joint ventures or other entities created for the purpose of constructing, owing and/or entities created for the purpose of constructing, owning and/or operating particular projects. Alternatively, Energy may choose to participate indirectly in qualifying facilities through partnerships, joint ventures or similar arrangements ("Joint Ventures") with nonaffilities. All investments would be subject to applicable provisions of PURPA and FERC rules thereunder which presently limit participation by electric utilities and affiliates to 50% of the equity interest. Such investments would also be subject to limitations imposed by the Commission's order in this filing.

Energy's investment and/or participation in qualifying facilities or Joint Ventures may take the form of the purchase of shares or other acquisitions of interest, the loaning of money, the guarantee of indebtedness or other contractual arrangements. The exact nature of contractual investment opportunities cannot yet be specified and Energy requests the flexibility to negotiate specific provisions with third parties without further Commission authorization, subject to the $250 million maximum financial commitment requested.

New England Energy Incorporated (70-6971)

New England Energy Incorporated ("NEEI"), 25 Research Drive, Westborough, Massachusetts 01582, a fuel suply subsidiary of New England Electric System, a registered holding company, has filed a post-effective amendment to its application-declaration pursuant to sections 6(a), 7, 9(a), and 10 of the Act and Rule 50 thereunder.

By order dated August 16, 1984 (HCAR No. 23397), NEEI was authorized to enter into interest payment exchange contracts ("Swap Agreement(s)"), with one or more parties, on or before December 31, 1985, covering a total

principal amount of up to $150 million for a term or terms ranging between three and seven years. By order dated March 7, 1986 (HCAR No. 24046), this authority was extended through December 31, 1987 and the total principal amount increased to $200 million. To date, NEEI has entered into a five-year Swap Agreement with Harris Trust and Savings Bank covering a principal amount of $25 million. NEEI now seeks authorization to enter into additional Swap Agreements or other types of interest rate protection mechanisms on or before December 31, 1989. The total principal amount that may be covered under all of these arrangements at any one time shall not exceed $200 million.

Connecticut Yankee Atomic Power Company (70–7255)

Connecticut Yankee Atomic Power Company ("Connecticut Yankee"), Selden Street, Berlin, Connecticut 06037–0218, a subsidiary of Northeast Utilities and of New England Electric System, both registered holding companies, has filed a post-effective amendment to its declaration pursuant to sections 6(a) and 7 of the Act and Rule 50 (a)(5) thereunder.

By order of the Commission dated December 24, 1986 (HCAR No. 24251), Connecticut Yankee was authorized to enter into a Remarketable Credit and Letter of Credit Agreement ("Agreement") with a syndicate of foreign banks for a term of five years, with up to three one-year renewal options. Aggregate short-term borrowings by Connecticut Yankee under this and other borrowing arrangements were not to exceed $115 million at any one time outstanding prior to January 1, 1988. Connecticut now proposes to extend the $115 million limitation upon its aggregate short-term borrowings for the period from January 1, 1988 to January 1, 1990.

The Columbia Gas System, Inc., et al. (70–7437)

The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and its wholly owned subsidiary companies, Columbia Gas System Service Corporation ("Service"), Columbia ING Corporation, Columbia Alaskan Gas Transmission Corporation, Columbia Hydrocarbon Corporation ("Hydrocarbon"), Columbia Coal Gasification Corporation ("Coal Gasification"), The Inland Gas Company, Inc. ("Inland"), Tristar Ventures Corporation, 20 Montchanin Road, Wilmington, Delaware 19807, Big Marsh Oil Company, Columbia Natural Resources, Inc. ("Columbia Natural"), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, Columbia Gas of Kentucky, Inc. ("Columbia Kentucky"), Columbia Gas of Ohio, Inc. ("Columbia Ohio"), Columbia Gas of Maryland, Inc. ("Columbia Maryland"), Columbia Gas of New York, Inc. ("Columbia New York"), Columbia Gas of Pennsylvania, Inc. ("Columbia Pennsylvania"), Columbia Gas of Virginia, Inc. ("Columbia Virginia"), 200 Civic Center Drive, Columbus, Ohio 43215, Columbia Gulf Transmission Company, 3805 West Alabama Avenue, Houston, Texas 77027, Columbia Gas Development of Canada Ltd. ("Development Canada"), 639–5th Avenue, SW., Calgary, Alberta, Canada T2P CM9, Columbia Gas Development Corporation ("Development"), 5847 San Felipe, Houston, Texas 77057, Commonwealth Gas Pipeline Corporation ("Commonwealth Pipeline"), Commonwealth Propane, Inc. ("Commonwealth Propane") and Commonwealth Gas Services, Inc. ("Commonwealth Services"), 800 Moorefield Park Drive, Richmond, Virginia 23236 (collectively, "Subsidiaries") have filed an application-declaration pursuant to sections 6(a), 6(b), 7, 9, 10, 12(b) and 12(f) of the Act and Rules 43, 45, 50(a)(2) and 50(a)(5) thereunder.

The Columbia system companies seek authorization through December 31, 1989 of the Subsidiaries' long-term and short-term intercompany financing programs, Columbia's external short-term financing program and the continuation of the Intrasystem Money Pool.

Certain of the Subsidiaries propose to issue and sell, and Columbia proposes to buy, their common stock at par value and/or long-term unsecured promissory notes up to the amounts indicated below:

[In thousands of dollars]

Company	Common stock	Long-term debt	Total
Columbia Kentucky		11,400	11,400
Columbia Maryland		3,600	3,600
Columbia New York	2,850	4,500	7,350
Columbia Ohio		67,700	67,700
Columbia Pennsylvania		31,800	31,800
Columbia Virginia		7,200	7,200
Commonwealth Services	6,000	8,500	14,500
Columbia Natural	9,000	9,500	18,500
Development		50,000	50,000
Development Canada	14,100	55,000	69,100
Commonwealth Propane	1,300	1,800	3,100
Coal Gasification		12,000	12,000
Service		2,600	2,600
Total	33,250	265,600	298,850

The term of the promissory notes will be determined by Columbia and will approximate that of Columbia's last issued debt or preferred stock instrument, but will not exceed twenty-five years.

Certain Subsidiaries also propose to make short-term borrowings and reborrowings from time to time through the Intrasystem Money Pool and/or from Columbia in an aggregate principal amount of $415 million. It is proposed that the Intrasystem Money Pool, which was extended through December 31, 1987 by order of the Commission dated December 20, 1985 (HCAR No. 23957), be continued through December 31, 1989.

Such borrowings for 1988 through 1989 will be limited to a maximum principal amount at any one time outstanding for each of the Subsidiaries as follows:

[In thousands of dollars]

	Short-term debt
Columbia Kentucky	30,000
Columbia Maryland	5,000
Columbia New York	12,000
Columbia Ohio	195,000
Columbia Pennsylvania	55,000
Columbia Virginia	13,000
Commonwealth Services	8,000
Commonwealth Pipeline	2,000
Columbia Natural	15,000
Development	25,000
Development Canada	23,000
Inland	5,000
Commonwealth Propane	4,000
Hydrocarbon	5,000
Coal Gasification	12,000
Service	6,000
Total	415,000

Columbia proposes to make short-term borrowings in an aggregate principal amount of up to $525 million at any one time outstanding through 1989. In order to issue and sell such amount of short-term notes, Columbia requests, pursuant to section 6(b) of the Act, an increase in the section 6(b) exemption from the requirements of section 6(a) to a limitation of 30% of the principal amount and par value of Columbia's outstanding securities. Columbia proposes to issue and sell short-term notes to banks under its bank credit lines and to dealers in commercial paper. Columbia requests that its proposed sale of commercial paper be excepted from the competitive bidding requirements of Rule 50, pursuant to Rule 50(a)(5).

Eastern Edison Company, et al. (70–7439)

Eastern Edison Company ("Eastern Edison"), 110 Mulberry Street, Brockton, Massachusetts 02403, Montaup Electric

Company ("Montaup"), P.O. Box 2333, Boston, Massachusetts 0217, Blackstone Valley Electric Company ("Blackstone"), Washington Highway, P.O. Box 1111, Lincoln, Rhode Island 02865, and EUA Service Corporation ("EUA Service"), P.O. Box 2333, Boston, Massachusetts 02107, (collectively, "Companies"), subsidiaries of Eastern Utilities Associates, a registered holding company, have filed a declaration pursuant to sections 6 and 7 of the Act.

The Companies propose to issue and sell short-term notes to banks, from time to time during the period from December 28, 1987, to December 27, 1988, in aggregate amounts outstanding at any one time not to exceed $50 million for Eastern Edison, $40 million for Montaup, $12 million for Blackstone and $3 million for EUA Service.

Each note will be dated the date of issuance and will mature no later than September 30, 1989. Some notes will bear interest at a floating prime rate, have maximum maturities of nine months, and be prepayable at any time without premium. Other notes will bear interest at available money market rates, in all cases less than the prime rate at the time of issuance, will have maximum maturities of nine months, and will not be prepayable.

MSU System Services, Inc; Middle South Utilities, Inc. (70–7462)

Middle South Utilities, Inc. ("MSU"), a registered holding company, and its wholly owned subsidiary service company, MSU System Services, Inc. ("Services"), 225 Baronne Street, New Orleans, Louisiana 70112, have filed an application-declaration pursuant to sections 6(a), 7, 9(a), 10, 12(b) and 12(f) of the Act and Rule 45 thereunder.

By order dated March 25, 1985 (HCAR No. 23680), Services was authorized to borrow and reborrow from MSU from time to time through December 31, 1987 an aggregate principal amount of up to $30 million at any one time outstanding. Services now requests authorization through December 31, 1989 to continue such unsecured borrowings in an aggregate amount of up $30 million at any one time outstanding, pursuant to a new loan agreement ("Loan Agreement") with MSU. These borrowings will be in addition to Services' borrowings from time to time through the MSU System Money Pool ("Money Pool"), as authorized by order of the Commission dated December 17, 1986 (HCAR No. 24266); provided, however, that (i) the aggregate principal amount of borrowings by Services outstanding at any one time, pursuant to the Loan Agreement, through the Money Pool and through such other borrowing arrangements as may hereafter be entered into by Services pursuant to authorization of the Commission, shall not exceed $30 million, and (ii) the aggregate principal amount of borrowings by Services outstanding at any one time through the Money Pool shall not exceed an amount equal to the aggregate unused portion of the line(s) of credit then available to Services pursuant to the Loan Agreement and/or such other borrowing arrangements as may hereafter be entered into by Services.

Subject to further authorization by the Commission, Services also proposes to negotiate external borrowing arrangements with one or more banks for an aggregate principal amount of up to $30 million at any time outstanding. The commitment(s) of any such bank(s) would reduce correspondingly MSU's commitment to Services under the Loan Agreement. MSU requests authorization to guarantee Services' obligations to such bank(s).

Central Power and Light Company (70–7472)

Central Power and Light Company ("CP&L"), 120 North Chaparral Street, Corpus Chirsti, Texas 78401, a wholly owned electric utility subsidiary of Central and South West Corporation, a registered holding company, has filed a declaration pursuant to section 6(a) and 7 of the Act and Rule 50(a)(5) thereunder.

CP&L proposes to issue and sell prior to December 31, 1988, up to 1,000,000 shares of auction rate preferred stock, par value $100 per share ("Auction Preferred"), in one or more series. The Auction Preferred is a type of adjustable rate preferred stock, the dividend on which is established by an auction process. CP&L requests an exemption from the competitive bidding requirements of Rule 50, pursuant to Rule 50(a)(5), and seeks preliminary authorization to enter into a negotiated underwriting agreement for the issuance and sale of the Auction Preferred. CP&L may do so.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–27328 Filed 11–25–87; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice CM–8/1134]

Secretary of State's Advisory Committee on Private International Law, Study Group on the Liability of Operators of Transport Terminals; Meeting

There will be a meeting of the subject Study Group at 10 a.m. to 4 p.m. on Friday December 11, 1987 in Room 10238 of the Department of Transportation building, 7th and D Streets, South West, Washington, DC. Members of the general public may attend up to the capacity of the meeting room and participate in the discussion subject to instructions of the Chairman.

The meeting agenda will include a review of the progress of the United Nations Commission on International Trade Law (UNICTRAL) Working Group on International Trade Practices in developing uniform rules on the liability of operators of transport terminals. The main issues to be addressed by the Study Group are those that will be considered at the January 1988 session of the UNCITRAL Working Group.

These issues are: Whether the uniform rules should be in the form of model legislation or a new international convention; whether the rules should apply only to those operators which undertake to be under the rules and which are recognized as terminal operators; whether stevedores should be excluded from the application of the uniform rules; what should be the regime governing the terminal operators' liability; what should be the limits on liability of the terminal operator; to what extent should servants and agents be entitled to limit liability; to what extent should servants and agents lose their rights to limit liability; should the terminal operator have the right to recover damages from shippers for improperly packaged dangerous goods; should the terminal operator be required to give special notice to owners of containers that containers may be sold to satisfy charges against the goods; how should liability limits be adjusted for inflation; should the uniform rules define the form of notice required under the rules; and what form of documentation, if any, should be provided by terminal operators to their customers. The latest draft of the uniform rules will be discussed.

Entry to the Department of Transportation building is controlled. As entry will be facilitated by advance arrangement, members of the general

public planning to attend should, prior to December 9th, notify the Office of the Assistant Legal Adviser for Private International Law, Department of State, Washington, DC 20520 (telephone: (202) 653–9853— of their name, affiliation, address and telephone number.

Peter H. Pfund,

Assistant Legal Adviser for Private International Law and Vice-Chairman, Secretary of State's Advisory Committee on Private International Law.

[FR Doc. 87–27240 Filed 11–25–87; 8:45 am]

BILLING CODE 4710–08–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Contra Costa and Solano Counties, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Contra Costa and Solano Counties, California.

FOR FURTHER INFORMATION CONTACT: D.L. Eyres, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95809, Telephone: (916) 551–1314.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with Caltrans will prepare an environmental impact statement (EIS) on a proposal to construct a new toll bridge across the Carquinez Straits parallel to the existing Benicia-Martinez Bridge. This proposal also includes modification of the interchanges at I–680/I–780, I–680/I–80, I–780/I–80, and at intermediate interchanges on I–680 and I–780; relocation of the toll plaza facility and administration building; widening of I–680 from just north of the I–680/Rte 4 Interchange in Contra Costa County to I–10 in Solano County, and widening of I–780 from the I–680/I–780 Interchange to I–80 in Solano County.

The purpose of the additional bridge and roadway widening is to relieve existing and future congestion. It is requested that agencies which may have knowledge about historic resources potentially affected by the proposal, or who are interested in the effects of the project on historic properties, present their views at this time.

The EIS will discuss the no project alternative and two alternative locations for the new parallel bridge involving construction of the proposed structure on the eastern and western sides of the existing bridge.

The proposed scoping process includes the distribution of the Notice of Preparation to each responsible and trustee agency pursuant to the California Environmetal Quality Act, publication of the Notice of Intent in the Federal Register and a scoping meeting to be held in December of this year. The time and place of the scoping meeting will be advertised in advance in local newspapers. It is anticipated that this highway project will apply the FHWA one-stop environmental process.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

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

Issued on: November 20, 1987.

D.L. Eyres,

District Engineer, Sacramento, California.

[FR Doc. 87–27296 Filed 11–25–87; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement; Fairfield and New Haven Counties, CT

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for proposed transportation improvements in Farifield and New Haven Counties, Connecticut.

FOR FURTHER INFORMATION CONTACT: James J. Barakos, Division Administrator, Federal Highway Administration, Abraham A. Ribicoff Federal Building, 450 Main Street, Hartford, Connecticut 06103 (203) 240–3705; or Edgar T. Hurle, Director of Environmental Planning, Connecticut Department of Transportation, 24 Wolcott Hill Road, Wethersfield, Connecticut 06109 (203) 566–5704

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with Connecticut Department of Transportation (Department) will prepare an Environmental Impact Statement (EIS) to identify and analyze the actions needed to address transportation needs in the Southern Connecticut Transportation Corridor from New Haven west to Greenwich. The Department has recently completed a two year multi-phase study which defined existing conditions, projected year 2010 conditions and the strategies necessary to accommodate the future travel demand in the corridor. Interstate 95 (I95) would require up to three additional lanes in each direction and Route 15 would require up to two additional lanes in each direction, for a total of ten new lanes in the corridor to accommodate the future travel demand. The New Haven Rail Line Commuter Service would require an additional thirty passenger cars and 2700 parking spaces.

In order to reduce the need for the additional lanes, initial combined strategies including rideshare/rail/highway expansion actions have been developed. Alternatives under consideration for the Draft EIS, at this time, include but are not limited to the No Build and a variety of highway expansion actions each in combination with a package of rideshare and rail strategies.

Scoping meetings will be held before the end of the year in each of the planning regions (South Central, Greater Bridgeport and South Western), to solicit public input into feasible alternatives for detailed studies. A scoping letter will be distributed in the next few weeks, in which the Cooperating Agency requests will be made. The agencies expected to be asked to be Cooperating Agencies are the US Coast Guard, US Environmental Protection Agency, US Department of the Interior (Fish and Wildlife Service and National Marine Fisheries), US Army Corps of Engineers, Connecticut State Historic Preservation Office. In addition appropriate Federal, state, and local agencies will be requested to submit comments. Any reviewer interested in submitting comments or questions should contact the FHWA or the Department at the addresses provided above.

James J. Barakos,

Division Administrator, Hartford.

[FR Doc. 87–27297 Filed 11–25–87; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement; Wicomico County, MD

AGENCY: Federal Highway Administration (FHWA) DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement is being

prepared for a proposed addition to the Salisbury Bypass on the north side of the city.

FOR FURTHER INFORMATION CONTACT: Mr. Edward A. Terry, Jr., Field Operations Engineer, Federal Highway Administration, The Rotunda, Suite 220, 711 W. 40th Street, Baltimore, Maryland 21211, telephone 301/962-4010, and/or Mr. Louis Ege, Jr., Deputy Director, Project Development Division, Maryland State Highway Administration, 707 North Calvert Street, Room 310, Baltimore, Maryland 21202, telephone 301/333-1130.

SUPPLEMENTARY INFORMATION: The FHWA, cooperation with the Maryland State Highway Administration, is preparing an environmental impact statement to develop an acceptable alternate to construct a four-lane access controlled freeway linking U.S. Route 50 on the east side of Salisbury with previously constructed portions of the Bypass on the north side of the city.

U.S. Route 50 is a primary highway which serves as the major east-west route through the city of Salisbury and also functions as the primary route between the Baltimore-Washington area and ocean resorts. Since Salisbury is the fastest growing metropolitan area on the eastern shore, local traffic using U.S. Route 50 is expected to increase. This increase in traffic will only add to traffic congestion within Salisbury.

Alternate 2 proposes to relocate U.S. Route 50 to bypass Salisbury to the north. It would diverge from U.S. Route 50 via a directional interchange just east of Rockawalkin Road. It then proceeds in a northeasterly direction passing under White Lowe Road, West Road, Log Cabin Road, Jersey Road, and continuing north of Bennett Airport. A frontage road to provide access to properties north of the new alignment is proposed between White Lowe Road and U.S. Route at Rockawalkin Road. A frontage road is also proposed on the south of U.S. Route 50 from White Lowe Road westward for approximately one quarter mile. A partial diamond interchange is proposed at White Lowe Road and a full diamond interchange is proposed at West Road. An optional full diamond interchange is under consideration at New Jersey Road. Near Connelly Mill Branch, the alignment turns southeasterly and crosses over Conrail and U.S. Route 13 where a full interchange is proposed. The interchange with U.S. Route 13 would be approximately 1¼ miles north of the existing interchange between U.S. 13 and the previously completed portion of the Bypass. The alignment then turns south and passes under Zion Road before coveraging with the existing Bypass in the vicinity of Morris Leonard Road.

Alternate 4 begins on U.S. Route 50 just west of Naylor Mill Road with a directional interchange. A frontage road would be constructed on each side of U.S. 50. The alignment leaves U.S. Route 50 curving northeasterly passing under relocated westbound U.S. Route 50, Naylor Mill Road, West Road and Jersey Road. A partial diamond interchange is proposed at Naylor Mill Road and an optional full diamond interchange is under consideration at Jersey Road. Continuing east, the alignment crosses over the Wicomico River and its associated floodplain and Scenic Drive on one structure. Bridges will also be provided at Goddard and Armstrong Parkways and Conrail, Northwood Drive, West Zion Road, and U.S. Route 13 and its existing ramp. The alignment then ties into existing Bypass. All movements will be provided with U.S. Route 13.

Impacts of concern are the number of possible residential relocations, particularly minority relocations, and business relocations associated with Alternate 4, and impacts to the natural environment associated with Alternate 2.

A public meeting to discuss the preliminary alternates has been held. A public hearing will be held after circulation of the DEIS. A pubic notice will give the time and place of the public hearing, and individual notices will be sent to those agencies, groups, and individuals on the mailing list. The DEIS will be available for public and agency review and comment prior to the public hearing. To ensure that the full range of issues relating to this proposal are addressed and all significant issues identified, comments and suggestions are invited from all interested parties.

(Catalog of Federal Domestic Assistance Program Number 20.025, Highway Research, Planning and Construction. The provisions of Executive Order 12372 regarding State and local review of Federal and Federally assisted programs and projects apply to this program)

Emil Elinsky,

Division Administrator, Baltimore, Maryland.

[FR Doc. 87-27242 Filed 11-25-87; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Hays and Caldwell Counties, TX

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Hays and Caldwell Counties, Texas.

FOR FURTHER INFORMATION CONTACT: Gamaliel E. Olvera, District Engineer, Federal Highway Administration, 826 Federal Office Building, Austin, Texas 78701, Telephone: (512) 482-5966.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Texas State Department of Highways and Public Transportation (SDHPT), intends to prepare an environmental impact statement (EIS) on a proposal to construct a loop around the City of San Marcos. The proposed San Marcos Outer Loop, which has been officially designated as Farm-to-Market (FM) 110, will completely circle the City of San Marcos. The proposed project length is approximately 24 miles.

Initially, FM 110 will be constructed as a two-lane farm-to-market road. During this phase the roadway will consist of two 12-foot travel lanes with 10-foot paved shoulders. The overall roadway width will be 44-feet. As increasing traffic warrants, the roadway will be upgraded to a four-lane divided highway. This will be accomplished by constructing two additional travel lanes parallel to the two-lane (initial) roadway. When complete the ultimate facility will consist of two 12-foot travel lanes in each direction. Directions of travel will be separated by a 76-foot depressed median. In addition, 4-foot inside and 10-foot outside paved shoulders will be constructed. Each direction of travel will have a pavement width of 38-feet. The overall roadway width, including median, will be 144-feet. Included in the proposed project are grade separated interchanges at IH 35 (north and south of San Marcos), SH 123, SH 80, SH 21, FM 2439, RM 12, Camp Gary Road, Post Road, all crossings of the Union Pacific and Missouri-Kansas-Texas Railroads, and possibly FM 621, Limekiln Road, Hilliard Road, and Redwood Road. It is anticipated that some of these crossings will be constructed at grade initially and separated during construction of the ultimate facility. Bridge structures will span the San Marcos and Blanco Rivers.

A review of population and traffic growth rates for San Marcos and Hays county indicates that improvements to the area roadway network are not keeping pace with population growth. The proposed project is needed to add required capacity to the highway system.

At least seven alternatives will be considered for this proposed action. They include six possible route options and a no-build alternative.

There are currently no plans to hold a formal scoping meeting for the proposed project. A public meeting will be held in January of 1988. In addition, a public hearing will be held. Public notices will be given of the time and place of the meeting and hearing. The Preliminary Environmental Assessment is available for review by the public or any interested party. The draft EIS will be available for public and agency review and comment.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

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

Issued on: November 17, 1987.

Gamaliel E. Olvera,

District Engineer, Austin, Texas.

[FR Doc. 87-27241 Filed 11-25-87; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

Public Meeting; Rescheduling

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of reschedule of place and time of public meeting.

SUMMARY: This notice announces a change of place and time of a public meeting (originally announced at 52 FR 39764, October 23, 1987) at which NHTSA will answer questions from the public and the automobile industry regarding the agency's rulemaking, research and enforcement programs. The public meeting, to be held Thursday, December 3, 1987, will be moved from Ann Arbor, Michigan to Washington, DC. The meeting will begin at 10:30 a.m., instead of the previously scheduled 10:00 a.m., and will be held in the Federal Aviation Administration's Auditorium, Building FOB-10A, 800 Independence Avenue, SW., Washington, DC 20591.

Issued on November 24, 1987.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 87-27379 11-24-87; 11:06 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular; Public Debt Series No. 33-87]

Treasury Notes, Series AF-1989

Washington, November 19, 1987.

The Secretary announced on November 18, 1987, that the interest rate on the notes designated Series AF-1989, described in Department Circular—Public Debt Series—No. 33-87 dated November 13, 1987, will be 7¾ percent. Interest on the notes will be payable at the rate of 7¾ percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 87-27212 Filed 11-25-87; 8:45 am]

BILLING CODE 4810-40-M

UNITED STATES INFORMATION AGENCY

Grants Competition; Youth Exchange Projects

Purpose

To identify and provide partial support for a limited number of excellent youth exchange projects. Grant awards will generally not exceed $50,000.

As part of this competition a few $10,000 grants will be made available to "community coalitions" (local networks of volunteers) for partial scholarships for youth exchange programs. Coalitions receiving these grants must match the funds, thereby providing a total of $20,000 for scholarships.

All USIA-sponsored exchange programs have as their principal objective mutual understanding.

Program Content

Programs should be for a minimum four-week stay. Age groups should be in the range of 15-19 years or 20-25 years. Organizations may request grant support to expand or experiment with new program models. USIA has a special interest in programs that develop youth leadership skills, those that stimulate international studies and career goals, and projects with a thematic focus.

Eligibility

Academic, cultural, not-for-profit, youth exchange and youth-serving organizations.

Criteria for Judging Proposals

The following criteria will be used by USIA to judge proposals:

—Quality of the project activities proposed, including orientation
—Selection of participants—USIA will examine the process for selecting participants in the interest of identifying mature, well-motivated, adaptable youth who are representative of their countries and will contribute to the goal of mutual education. Organizations are encouraged to include disadvantaged, disabled and minority youth in exchanges
—Cost effectiveness—Greatest return for each federal dollar invested; reasonable per capita cost in relation to other proposals submitted
—Cost Sharing—Financial and in-kind support from participating organizations, schools, community funding sources and parents
—Organization's qualifications—Based both on past track record and on USIA's judgment of the organization's ability to manage the proposed subject and achieve the stated objectives within the time frame indicated
—Potential impact of the project—Likely outcome of the project and its effect on the community, school or institution
—Relevance of project goals to USIA interests, as determined by the Youth Exchange Staff in conjunction with USIA Area offices and other elements.
—Geographic balance of grants and activities

Ineligible Activities

—Sports exchanges
—Research studies
—Study for post-secondary academic credit or degree programs.
—Performing arts tours
—Any project designed to lobby elected officials, to promote politically partisan views, or whose aim is to promote religious activities

Review Process

Proposals (original and 12 copies) must be received in USIA no later than January 8, 1988. Initial review for eligibility and completeness will conclude January 31. Formal panel review and final determination of awards should be completed by March 31.

Proposal Format

Organizations must use "Guidelines for Proposals," which may be obtained by writing to: Youth Exchange Staff, United States Information Agency, 301 4th St. SW. Rm. 357, Washington, DC 20547.

For additional information please write or telephone (202) 485–7299.

Dated: November 13, 1987.

Charles N. Canestro,

Federal Register Liaison.

[FR Doc. 87–27286 Filed 11–25–87; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 228
Friday, November 27, 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, December 2, 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 staff will brief the Commission on 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 23, 1987.

[FR Doc. 87–27345 Filed 11–24–87; 10:42 am]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Thursday, December 3, 1987.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, MD.

STATUS:

MATTERS TO BE CONSIDERED:

Open to the Public

1. Audio-Visual Carts Petition CP 86–1

The staff will brief the Commission on a petition to initiate rule making to address a tip-over hazard associated with television and audio-visual carts used in schools and other institutions.

2. Pool Safety—Status Report

The staff will brief the Commission on Fiscal Year 1987 activities of the pool safety project.

Closed to the Public

3. Enforcement Matter OS# 4105

The staff will brief the Commission on Enforcement Matter OS# 4105.

4. Enforcement Matter OS# 4605

The staff will brief the Commission on Enforcement Matter OS# 4605.

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 23, 1987.

[FR Doc. 87–27346 11–24–87; 10:42 am]

BILLING CODE 6355–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, December 8, 1987, 9:30 a.m. (eastern time).

PLACE: Clarence M. Mitchell, Jr., Conference Room, No. 200–C on the Second Floor of the Columbia Plaza Office Building, 2401 E Street, NW., Washington, DC 20507.

STATUS: Part of the meeting will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open Session

1. Announcement of Notation Vote(s)
2. A Report on Commission Operations (Optional)
3. Proposed Section 602, Evidence, Volume II of the EEOC Compliance Manual
4. Recommendation for Certification—Louisville and Jefferson County Human Relations Commission
5. Proposed Contract for Expert Services in Connection with a Court Case

Closed Session

Litigation Authorization: General Counsel Recommendations

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer (Acting) on (202) 634–6748.

This Notice Issued November 23, 1987.

Cynthia Clark Matthews,

Executive Officer (Acting), Executive Secretariat.

[FR Doc. 87–27414 Filed 11–24–87; 1:33 pm]

BILLING CODE 6750–06–M

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, December 1, 1987, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

DATE AND TIME: Thursday, December 3, 1987, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings.
Correction and Approval of Minutes.
Eligibility Report for Candidates to Receive Presidential Primary Matching Funds.
Draft Advisory Opinion 1987–30—Fred Burnell on behalf of Ripley for Senate Committee.
Routine Administrative Matters: Reorganization of the Office of the General Counsel.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202–376–3155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 87–27373 Filed 11–24–87; 10:44 am]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS:

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 52 FR 44274, November 18, 1987.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11:00 a.m., Monday, November 23, 1987.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

Further consideration of testimony on banking issues. (This item was originally announced for a closed meeting on November 12, 1987.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Date: November 23, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–27347 Filed 11–24–87; 10:43 am]

BILLING CODE 6210–01–M

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 9:30 a.m., Thursday, December 3, 1987.

PLACE: Filene Board Room, 7th Floor, 1776 G Street, NW., Washington, DC 20456, (202) 357–1100.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Economic Commentary.
3. Central Liquidity Facility Report and Review of CLF Lending Rate.
4. Insurance Fund Report.
5. Final Rule: Prohibited Lending Practices.
6. Regulatory Review: Section 701.5, NCUA Rules and Regulations, Other Applications.
7. Proposed Rule: Section 701.24, NCUA Rules and Regulations, Refund of Interest.

RECESS: 10:45 a.m.

TIME AND DATE: 11:00 a.m., Thursday, December 3, 1987.

PLACE: Filene Board Room, 7th Floor, 1776 G Street, NW., Washington, DC 20456, (202) 357–1100.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.
2. Administrative Actions under Sections 206 and 208 of the Federal Credit Union Act. Closed pursuant to exemptions (7), (8), (9)(A)(ii), and (9)(B).
3. Requests for Exemption from Part 701.21 (h)(2)(ii), NCUA Rules and Regulations. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).
4. Board Briefings. Closed pursuant to exemptions (2) and (9)(b).

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, telephone (202) 357–1100.

Becky Baker,

Secretary of the Board.

[FR Doc. 87–27428 Filed 11–24–87; 2:52 PM]

BILLING CODE 7535–01–M

POSTAL SERVICE

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 USC 552b), hereby gives notice that it intends to hold a meeting at 1:00 p.m. on Monday, December 7, 1987, in Washington, DC, and at 8:30 a.m. on Tuesday, December 8, 1987, in the Benjamin Franklin Room, U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., Washington, DC. As indicated in the following paragraph, the December 7 meeting is closed to the public. The December 8 meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268–4800.

The Board voted in accordance with the provisions of the Government in the Sunshine act to close to public observation its meeting scheduled for December 7, 1987, to consider two major capital investment projects. (52 FR 43965, November 17, 1987.)

Monday Session

December 7, 1987—1:00 p.m. (Closed)

1. Capital Investments:
   a. Bar Code Sorters
   b. Flat Sorting Machines.

Tuesday Session

December 8, 1987—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, November 2–3, 1987.
2. Remarks of the Postmaster General.
3. Status Report on CSRS/FERS.
4. FY 1989 Appropriations Request—Final.
5. FY 1987 Financial Statements.
6. Annual Comprehensive Statement to Congress.
7. Chief Inspector's Report on Consumer Protection (Pub. L. 98–186).
8. Capital Investment: North Suburban (Chicago), IL
9. Tentative Agenda for January 4–5, 1988, meeting in Washington, DC.

David F. Harris,

Secretary.

[FR Doc. 87–27377 Filed 11–24–87; 11:01 am]

BILLING CODE 7710–12–M

STATE JUSTICE INSTITUTE

TIME AND DATE:

9:00 a.m. to 5:00 p.m., December 6, 1987
9:00 a.m. to 5:00 p.m., December 7, 1987
9:00 a.m. to 3:00 p.m., December 8, 1987

PLACE: The Antlers Hotel, 4 South Cascade, Colorado Springs, Colorado.

STATUS: The meeting will be closed from 2:00 p.m. until 5:00 p.m. on December 6 to discuss matters exempted from public discussion, pursuant to 5 U.S.C. 552b(c).

MATTERS TO BE CONSIDERED:

Portions Open to the Public

Consideration of Concept Papers submitted for Fiscal Year 1988 Institute funding and policy development for FY 1988.

Portions Closed to the Public

Discussion of internal personnel practices and procedures.

CONTACT PERSON FOR MORE INFORMATION: David I. Tevelin, Executive Director, State Justice Institute, 120 South Fairfax Street, Alexandria, Virginia 22312, (703) 684–6100.

David I. Tevelin,

Executive Director.

[FR Doc. 87–27401 Filed 11–24–87; 12:53 pm]

BILLING CODE 6820–SC–M

federal register

Friday
November 27, 1987

Part II

Department of Education

34 CFR Part 692

State Student Incentive Grant Program; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Part 692

State Student Incentive Grant Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the State Student Incentive Grant (SSIG) program. These amendments are needed to implement changes made by the Higher Education Amendments of 1986. The regulations provide for an increase in the maximum SSIG award and clarify the new formula under which SSIG funds are allotted to the States.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Neil C. Nelson, Chief, State Student Incentive Grant Program, Office of Student Financial Assistance, Office of Postsecondary Education, U.S. Department of Education (Room 4018, ROB–3), 400 Maryland Avenue, SW., Washington, DC 20202.

SUPPLEMENTARY INFORMATION: On Thursday, June 18, 1987, the Secretary published a notice of proposed rulemaking for the SSIG program in the **Federal Register**, 52 FR 23260.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, nine parties submitted comments on the proposed regulations. An analysis of the comments and of the changes to the regulations since publication of the NPRM follows. Substantive issues are discussed under the section of the regulations to which they pertain.

Section 692.1 What is the State Student Incentive Grant Program?

Comment: One commenter pointed out that the statutory name for the program's work-study component is "campus-based community service work learning study jobs" and wanted to know if the use, throughout the regulations, of the term "community service-learning job program" to describe this component altered the "campus-based" requirement. Further, the commenter suggested that the statutory name be used in the regulations.

Discussion: The requirement that the SSIG job program be campus-based was not intended to be altered. Section 692.30(b)(1) provides that the program must be administered by institutions of higher education. The abbreviated name for the program was proposed for ease of reference.

Changes: The regulations now refer, in § 692.1, to the full name of the work-study component in order to highlight its various aspects.

Section 692.10 How does the Secretary allot funds to the States?

Comments: Two commenters wanted to know how the number of eligible students in each State will be determined in § 692.10(a)(1). One commenter was concerned that the process for determining eligible enrollments for the various States may be inconsistent because of the different types of institutions participating in their respective programs.

Discussion: The States will inform the Department of Education (ED) which institutions of higher education were eligible to participate in their SSIG programs in the most recent year for which satisfactory enrollment data is available as determined by ED. ED will then determine the number of students enrolled in these institutions in that year and will ensure that the data used for the various types of institutions are as consistent as possible.

Changes: None.

Comments: One commenter asked if the allotment of program funds on the basis of the number of students eligible to participate in the program, rather than the total State higher education enrollments (the method of allotting program funds prior to the Higher Education Amendments of 1986), would cause students to be excluded from participation or would increase participation.

Discussion: The method of allotting program funds established by the Amendments of 1986, as interpreted in the regulations, provides an incentive to States to increase the number of institutions that are eligible to participate in their SSIG programs and to thereby increase the enrollment base upon which program funds are allotted. If some States do broaden their institutional eligibility requirements to allow additional categories of institutions to participate in their programs, this change may increase the number of students that are eligible to apply for assistance under the program in those States.

Changes: None.

Comments: One commenter pointed out that, according to the statute, program funds are to be allotted on the basis of eligible students, and therefore proposed § 692.10(b) is in error because it is based on the enrollment at institutions that are eligible to participate in the program. The commenter suggested that the regulations be revised so that the allotment formula be based on "the number of students directly eligible for State grants."

Discussion: The manner of allotting SSIG funds suggested by the commenter would include the student eligibility criteria of § 692.40 (including substantial financial need) as well as any additional State criteria, such as criteria pertaining to academic merit. Such an interpretation would not be administratively feasible because of the data collection difficulties.

The types of information needed under this interpretation are not available to the Department. If the information were to be provided by the States, it would substantially increase their recordkeeping and reporting burden, as well as that of the institutions. It would require all accredited public and private nonprofit institutions of higher education, as well as the particiating proprietary institution, to maintain information on the financial need, citizenship status, satisfactory progress status, and selective service status of each student counted as being eligible for State allotment purposes (whether or not the student has applied for SSIG assistance), and to have statements on file indicating the intent of these students to expend any assistance received under Title IV of the Higher Education Act of 1965 as amended (HEA) solely for educational purposes. The default and "grant refund" status (as defined in the Student Assistance General Provisions in 34 CFR 668.7(d)) of all enrolled students would also have to be maintained.

Also, the suggested manner of allotting program funds is not feasible because of the variety of ways in which eligibility is determined under State programs. Some of the data, such as that pertaining to the substantial financial need criterion, is non-existent and could not be constructed, given current definitions of the criterion by some States. For example, those States that determine whether or not a student has substantial financial need on the basis of a ranking of applicants according to need, rather than a specific cut-off, would have no pool of eligibles that could be counted for allotment purposes.

Changes: None.

Comments: One commenter pointed out that a State may have several institutions not participating in its SSIG

program because those institutions have not sought eligibility, even though some of those institutions would be found to be eligible. The commenter believed that the reference in this section to "attendance at an institution that is eligible to participate in the State's program" is discretionary toward States that have institutions that do not seek program eligibility, and asked that the reference be changed to "attendance at an institution that is permitted to seek eligibility to participate in the State's program." Another commenter pointed out that some institutions are "eligible" according to State eligibility standards but yet choose not to participate in the program. He asked whether or not the students enrolled at these non-participating "eligible institutions" could be counted in the allotment of program funds.

Discussion: The statute does not permit students from ineligible institutions to be counted in the allotment of program funds regardless of the reason for that ineligibility. If students at a particular institution are not eligible to apply for SSIG assistance because the institution is not participating in the program that year, those students cannot be counted. It does not matter whether the institution's non-participation is by its own choice or because of State law or policy.

Changes: None.

Section 692.21 What requirements must be met by a State program?

Comments: One commenter believed that § 692.21(e) is discriminatory because an institution's participation can be barred by the constitution of the State in which it is located or by a State statute that was enacted before October 1, 1978.

Discussion: The provision contained in § 692.21(e) is statutory and cannot be changed.

Changes: None.

Comments: Another commenter pointed out that the reference in § 692.21(e) to "postsecondary vocational institutions" is not in the SSIG program statute, and wanted to know why it was added to the regulations.

Discussion: Under section 481(a) of the HEA, a postsecondary vocational institution is an eligible institution of higher education under the SSIG program subject to the exceptions specified in section 415C(b)(5) of the HEA. This type of institution is specifically cited in the regulations to clarify the meaning of the program's institutional eligibility provisions.

Changes: None.

Section 692.30 How does a State administer its community service-learning job program?

Comments: One commenter pointed out that § 692.30(b)(2) does not include the phrase "in the public interest," which is College Work-Study Program statutory language made applicable to the new work-study component of SSIG by section 415C(b)(3)(C) of the HEA. The commenter wanted to know what effect this omission would have and why the phrase was omitted.

Discussion: The phrase was unintentionally left out of the NPRM.

Changes: The phrase "in work in the public interest" has been added to § 692.30(b)(2).

Comments: Another commenter expressed concern that the community service-learning job program's administrative burden be kept to a minimum and cautioned that the requirement, in § 692.30(c)(2), relating the job to the student's educational or vocational program or goals could be difficult to administer. The commenter also noted that the use of Census Bureau poverty criteria in defining "low-income residents" would be administratively burdensome.

Discussion: The language in § 692.30(c)(2) is statutory and cannot be changed. However, the definition of "low-income residents" is not specifically required by the program statute and has been broadened to provide administrative flexibility.

Changes: Section 692.30(e) has been revised so that the State may use its own definition of "low-income residents" in its administration of the work-study component.

Comments: One commenter pointed out that the statutory phrase "formal or informal" had been left out of § 692.30(d)(1), which describes the consultation that has to take place between the institution administering the work-study program and the community.

Discussion: The Secretary agrees that identification of the work-study jobs can be accomplished through either formal or informal consultation with local nonprofit, governmental, and community-based organizations.

Changes: The statutory phrase "formal and informal" has been added to § 692.30(d)(1).

In addition to the above changes, § 692.40 has been revised to conform these final regulations to the Student Assistance General Provisions regulations, 34 CFR Part 668. Section 692.40 now incorporates the student eligibility provisions common to all Title IV HEA programs by cross-reference to 34 CFR 668.7.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 692

Education, grant program, Education, state-adminstered, Education, student aid.

(Catalog of Federal Domestic Assistance Number 84.069: State Student Incentive Grant Program)

Dated: November 4, 1987.

William J. Bennett,

Secretary of Education.

The Secretary revises Part 692 of Title 34 of the Code of Federal Regulations to read as follows:

PART 692—STATE STUDENT INCENTIVE GRANT PROGRAM

Subpart A—General

Sec.

Subpart B—What Is the Amount of Assistance and How May It Be Used?

Subpart C—How Does a State Apply To Participate in This Program?

Authority: 20 U.S.C 1070c–1070c–1070c–4 1070c–4, unless otherwise noted.

Subpart A—General

§ 692.1 What is the State Student Incentive Grant Program?

The State Student Incentive Grant Program assists States in providing grants and work-study assistance to eligible students who attend institutions of higher education and have substantial financial need. The work-study assistance is provided through campus-based community service work learning study programs, hereinafter referred to as community service-learning job programs.

(Authority: 20 U.S.C. 1070c–1070c–4)

§ 692.2 Who is eligible to participate in the State Student Incentive Grant Program?

(A) *State participation.*

A State that meets the requirements in §§ 692.20 and 692.21 is eligible to receive payments under this program.

(b) *Student participation.*

A student must meet the requirements of § 692.40 to be eligible to receive assistance from a State under this program.

(Authority: 20 U.S.C. 1070c–1)

§ 692.3 What regulations apply to the State Student Incentive Grant Program?

The following regulations apply to the State Student Incentive Grant Program:

(a) The regulations in this Part 692.

(b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants) except for Subpart G, Part 76 (State-Administered Programs), Part 77 (Definitions That Apply to Department Regulations), and Part 78 (Education Appeal Board).

(c) The regulations in 34 CFR Part 604 that implement section 1203 of the HEA (Federal-State Relationship Agreements).

(d) The Student Assistance General Provisions in Subpart A of 34 CFR Part 668.

(Authority: 20 U.S.C. 1070c)

§ 692.4 What definitions apply to the State Student Incentive Grant Program?

The following definitions apply to the regulations in this part:

(a) *Definitions in 34 CFR Part 668.* The following terms used in this part are defined in 34 CFR Part 668:

Academic year (§ 668.2).

Campus-based programs (§ 668.2).

Enrolled (§ 668.2).

Guaranteed Student Loan Program (§ 668.2).

HEA (§ 668.2).

Income Contingent Loan Program (§ 668.2).

Pell Grant Program (§ 668.2).

PLUS Program (§ 668.2).

Public or private nonprofit institution of higher education (§ 668.3).

Postsecondary vocational institution (§ 668.5).

Secretary (§ 668.2).

State (§ 668.2).

(b) *Other definitions that apply to this part.* The following additional definitions apply to this part:

"Full-time student" means a student carrying a full-time academic workload—other than by correspondence—as measured by both of the following:

(1) Coursework or other required activities, as determined by the institution that the student attends or by the State.

(2) The tuition and fees normally charged for full-time study by that institution.

"Nonprofit" has the same meaning under this part as the same term defined in 34 CFR 77.1 of EDGAR.

(Authority: 20 U.S.C. 1070c–1070c–4)

Subpart B—What Is the Amount of Assistance and How May It Be Used?

§ 692.10 How does the Secretary allot funds to the States?

(a)(1) The Secretary allots to each State participating in the SSIG program an amount which bears the same ratio to the Federal SSIG funds appropriated as the number of students in that State who are "deemed eligible" to participate in the State's SSIG program bears to the total number of students in all States who are "deemed eligible" to participate in the SSIG program, except that no State may receive less than it received in fiscal year 1979.

(2) If the Federal SSIG funds appropriated for a fiscal year are not sufficient to allot to each State the amount of Federal SSIG funds it received in fiscal year 1979, the Secretary allots to each State an amount which bears the same ratio to the amount of Federal SSIG funds appropriated as the amount of Federal SSIG funds that State received in fiscal year 1979 bears to the amount of Federal SSIG funds all States received in fiscal year 1979.

(b) For the purpose of paragraph (a)(1) of this section, a student is "deemed eligible" to participate in a State's SSIG program if the student is in attendance at an institution that is eligible to participate in the State's program.

(Authority: 20 U.S.C. 1070c)

§ 692.11 For what purposes may a State use its payments under the program?

A State may use the funds it receives under this part only to make grants to students and to pay wages or salaries to students in community service-learning jobs.

(Authority: 20 U.S.C. 1070c)

Subpart C—How Does a State Apply To Participate in This Program?

§ 692.20 What must a State do to receive an allotment under this program?

(a) To participate in the State Student Incentive Grant Program, a State shall enter into an agreement with the Secretary under section 1203 of the HEA (Federal-State Relationship Agreement).

(b) For each fiscal year that it wishes to participate, a State shall submit an application that contains information that shows that its State Student Incentive Grant Program meets the requirements of § 692.21.

(c)(1) Except as provided in paragraph (c)(2) of this section, the State shall submit its application through the State agency designated in its Federal-State Relationship Agreement to administer its State Student Incentive Grant Program as of July 1, 1985.

(2) If the Governor of the State so designates, and notifies the Secretary through a modification to the State's Federal-State Relationship Agreement, the State may submit its application under paragraph (b) of this section through an agency that did not administer its State Student Incentive Grant Program as of July 1, 1985.

(Authority: 20 U.S.C. 1070c-2(a))

(Cross-reference: See 34 CFR Part 604, Federal-State Relationship Agreements)

(Approved by the Office of Management and Budget under control number 1840–0544)

§ 692.21 What requirements must be met by a State program?

To receive a payment under this program for any fiscal year, a State must have a program that—

(a) Is administered by a single State agency in accordance with the Federal-State Relationship Agreement under section 1203 of the HEA.

(b) Provides assistance only to students who meet the eligibility requirements in § 602.40;

(c) Provides that assistance under this program to a full-time student will not be more than $2,500 for each academic year;

(d) Provides for the selection of students to receive assistance on the basis of substantial financial need determined annually by the State on the basis of standards that the State establishes and the Secretary approves.

(Cross-reference: See § 692.41.)

(e) Provides that all public or private nonprofit institutions of higher education and all postsecondary vocational institutions in the State are eligible to participate unless that participation is in violation of—

(1) The constitution of the State; or

(2) A State statute that was enacted before October 1, 1978;

(f) Provides that, if a State allocates funds to an institution under a formula which is based in part on the financial need of less-than-full-time students enrolled in the institution, a reasonable portion of the institution's allocation must be awarded to those students;

(g) Provides that—

(1) The State will pay an amount for grants and work-study jobs under this part for each fiscal year that is not less than the payment to the State under this part for that fiscal year; and

(2) The amount that the State expends during a fiscal year for grants and work-study jobs under this program represents an additional amount for grants and work-study jobs for students attending institutions of higher education over the amount expended by the State for those activities during the fiscal year two years prior to the fiscal year in which the State first received funds under this program;

(h) Provides for State expenditures under the State program of an amount that is not less than—

(1) The average annual aggregate expenditures for the preceding three fiscal years; or

(2) The average annual expenditure per full-time equivalent student for those years; and

(i) Provides for reports to the Secretary that are necessary to carry out the Secretary's functions under this part.

(Authority: 20 U.S.C. 1070c–2)

(Approved by the Office of Management and Budget under control number 1840–0544)

Subpart D—How Does a State Administer Its Community Service-Learning Job Program?

§ 692.30 How does a State administer its community service-learning job program?

(a)(1) Each year, a State may use up to 20 percent of its allotment for a community service-learning job program that satisfies the conditions set forth in paragraph (b) of this section.

(2) A student who receives assistance under this section must receive compensation for work and not a grant.

(b)(1) The community service-learning job program must be administered by institutions of higher education in the State.

(2) Each student employed under the program must be employed in work in the public interest by an institution itself or by a Federal, State, or local public agency or a private nonprofit organization under an arrangement between the institution and the agency or organization.

(c) Each community service-learning job must—

(1) Provide community service as described in paragraph (d) of this section;

(2) Provide participating students community service-learning opportunities related to their educational or vocational programs or goals;

(3) Not result in the displacement of employed workers or impair existing contracts for services;

(4) Be governed by conditions of employment that are considered appropriate and reasonable, based on such factors as type of work performed, geographical region, and proficiency of the employee;

(5) Not involve the construction, operation, or maintenance of any part of a facility used or to be used for religious worship or sectarian instruction; and

(6) Not pay any wage to a student that is less than the current Federal minimum wage as mandated by section 6(a) of the Fair Labor Standards Act of 1938.

(d) For the purpose of paragraph (c)(1) of this section, "community service" means direct service, planning, or applied research that is—

(1) Identified by an institution of higher education through formal or informal consultation with local nonprofit, governmental, and community-based organizations; and

(2) Designed to improve the quality of life for residents of the community served, particularly low-income residents, in such fields as health care, child care, education, literacy training, welfare, social services, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, and community improvement.

(e) For the purpose of paragraph (d)(2) of this section, "low-income residents" means—

(1) Residents whose taxable family income for the year before the year in which they are scheduled to receive assistance under this part did not exceed 150 percent of the amount equal to the poverty level determined by using criteria of poverty established by the United States Census Bureau; or (2) Residents who are considered low-income residents by the State.

(2) Residents who are considered low-income residents by the State.

(Authority: 20 U.S.C. 1070c-2, 1070-4)

Subpart E—How Does a State Select Students Under This Program?

§ 692.40 What are the requirements for student eligibility?

To be eligible for assistance, a student must—

(a) Meet the relevant eligibility requirements contained in 34 CFR 668.7; and

(b) Have substantial financial need as determined annually in accordance with the State's criteria approved by the Secretary.

(Authority: 20 U.S.C. 1070c-2, 1091)

(Approved by the Office of Management and Budget under control number 1840–0544.)

§ 692.41 What standards may a State use to determine substantial financial need?

A State determines whether a student has substantial financial need on the basis of criteria it establishes that are approved by the Secretary. A State may define substantial financial need in terms of family income, expected family contribution, and relative need as measured by the difference between the student's cost of attendance and the resources available to meet that cost. To determine substantial need, the State may use—

(a) A system for determining a student's financial need under the Pell Grant, Guaranteed Student Loan, PLUS, or campus-based programs;

(b) The State's own needs analysis system if approved by the Secretary; or

(c) A combination of these systems, if approved by the Secretary.

(Authority: 20 U.S.C. 1070c-2.)

[FR Doc. 87–27317 Filed 11–25–87; 8:45 am]

BILLING CODE 4000–01–M

Federal Register

Friday
November 27, 1987

Part III

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1910

Occupational Exposure to Hepatitis B Virus and Human Immunodeficiency Virus; Advance Notice of Proposed Rulemaking

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-370]

Occupational Exposure to Hepatitis B Virus and Human Immunodeficiency Virus

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

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This notice announces the initiation of the rulemaking process and requests information relevant to reducing occupational exposure to hepatitis B virus [HBV] and human immunodeficiency virus [HIV or AIDS virus] under section 6(b) of the Occupational Safety and Health Act of 1970 [the Act], 29 U.S.C. 655. This notice briefly summarizes the ongoing activities in this area and describes the information available to OSHA concerning HBV and HIV infections, existing guidelines for worker protection, and risk estimates. The notice invites interested parties to submit data, comments and other pertinent information regarding OSHA's development of a proposed standard for occupational exposure to HBV and HIV.

DATES: Comments in response to this advance notice should be submitted by January 20, 1988.

ADDRESSES: Comments should be submitted in quadruplicate to the Docket Officer, Occupational Safety and Health Administration, Docket No. H-370, Room N-3670, U.S. Department of Labor, 200 Constitution Ave, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Occupational Safety and Health Administration, U.S. Department of Labor, Office of Information, Room N-3647, 200 Constitution Ave., NW., Washington, DC 20210, Telephone (202) 523-8151.

SUPPLEMENTARY INFORMATION:

1. Introduction

Many health-care workers are at risk of infection with the viruses that cause hepatitis B and acquired immune deficiency syndrome (AIDS) due to their exposure to contaminated blood and other body fluids. Occupational exposure, which can occur as the result of needlestick or cut injuries, occurs when contaminated blood or body fluids come in contact with mucous membranes or broken skin. Examples of occupations with potential for exposure include physicians, nurses, dentists, phlebotomists, laboratory personnel, blood bank personnel, paramedics, morticians, and housekeepers and laundry workers in health-care facilities.

Although OSHA has no standard that was designed specifically to reduce occupational exposure to these viruses, there are a number of existing regulations that apply to this hazard. An example is 29 CFR 1910.132 (personal protective equipment) which requires employers to provide:

> Protective equipment, including personal protective equipment for eyes, face, head and extremities, protective clothing, respiratory devices, and protective shields and barriers * * * wherever it is necessary by reason of hazards of processes or environment * * * encountered in a manner capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact.

In addition, section 5(a) the General Duty Clause of the Act requires that each employer:

> * * * furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.

In 1983, OSHA issued a set of voluntary guidelines designed to reduce the risk of occupational exposure to hepatitis B (Docket H-370, Exhibit Number (Ex.) 4-25). The voluntary guidelines, which were sent to employers in the health-care industry, included a description of the disease, recommended work practices, and recommendations for use of immune globulins and the hepatitis B vaccine. Guidelines for vaccination and postexposure prophylaxis have been issued by the Centers for Disease Control (CDC) (Ex. 4-9). OSHA has not issued guidelines for reducing occupational exposure to HIV, but guidelines have been issued by the CDC (Ex. 6-153), the American Hospital Association (AHA) (Exs. 6-75; 6-76), and the American Occupational Medical Association (AOMA) (Ex. 6-112).

The Departments of Labor (DOL) and Health and Human Services (HHS) have formed a working group to develop an extensive and far reaching plan regarding blood-borne diseases in the workplace. Pursuant to this plan, and in order to provide immediate protection in the health-care workplace against HBV and HIV, the Department is taking the following steps:

- First, we are currently implementing a targeted inspection program under the OSH Act to examine actual work practices among health-care workers at risk from exposure to blood-borne diseases.
- Second, DOL and HHS have issued a Joint Advisory Notice (52 FR 41818, October 30, 1987) to ensure that health-care and other affected employers are fully aware of the applicable guidelines regarding blood-borne disease.
- Third, DOL and HHS will jointly begin an extensive educational effort which targets health-care workers, involving as many interested employer and employee organizations and governmental agencies as possible, and emphasizing education, training and technical assistance.

OSHA will require adherence to existing regulations and will apply the General Duty clause in order to protect health-care workers from the risks of blood-borne diseases. In addition, a careful assessment of the extent to which actual work practices conform to the guidelines, as well as the reasons for any difference between practice and guidelines, is an essential starting point for the development of a proposed standard. OSHA intends to use information gathered in these targeted inspections as one part of a program to assess actual work practices.

The Department of Health and Human Services, which will continue to play a primary role in developing consensus recommendations and guidelines for protecting against HBV and HIV infections in the workplace, will be reviewing the various guidelines already issued in this area to determine if the need exists for updating. OSHA will also work with HHS to develop additional materials intended for worker education that can be easily reproduced and distributed. There is agreement that education and training are important to assure optimum use of available protective measures.

OSHA will also be working with other Public Health Service agencies, local agencies, universities, hospitals, and state and local health-care departments in an effort to provide both health-care employers and workers with the latest information on blood-borne diseases. This will be useful in the country's overall response to address these infectious diseases.

2. Petitions for Emergency Temporary Standard

On September 19, 1986, the American Federation of State, County and Municipal Employees (AFSCME) petitioned OSHA to take action to reduce the risk to employees from exposure to certain infectious agents (Ex. 2A). They requested that OSHA issue an emergency temporary standard

(ETS) under section 6(C) of the Act. The petitioners also requested that OSHA immediately initiate a section 6(b) rulemaking that would require employers to provide the HBV vaccine at no cost to employees at risk for HBV infection and would require employers to follow work practice guidelines such as those issued by the Centers for Disease Control. AFSCME also requested that OSHA amend the Hazard Communication Standard (48 FR 53280) to require a training program for employees exposed to infectious diseases, counseling for pregnant employees about diseases that have reproductive effects, and posting of isolation precautions in patient areas and in contaminated areas.

On September 22, 1986, the Service Employees International Union, the National Union of Hospital and Healthcare Employees, and RWDSU Local 1199—Drug, Hospital and Healthcare Union petitioned the Agency to promulgate a standard to protect health-care employees from the hazard posed by occupational exposure to hepatitis B (Ex. 3). They requested that, as a minimum, the standard should contain all of the provisions in OSHA's 1983 guidelines with special emphasis on making workers aware of the benefits of vaccination. In addition, they wanted OSHA to immediately issue a directive stating that employers must provide the HBV vaccine free of charge to all high risk health-care workers.

After reviewing these petitions and the available data, OSHA determined that the appropriate course of action is to publish an ANPR to initiate rulemaking under section 6(b) of the Act and to collect further information. Concurrently with the collection of this information, the Agency will enforce existing regulations and section 5(a)(1) of the Act, and the Agency will undertake an educational program in cooperation with the Department of Health and Human Services. OSHA has determined that the available data do not meet the criteria for an ETS as set forth in section 6(c) of the Act. The petitions, therefore, have been denied.

How best to protect against blood-borne diseases in the health-care workplace is a question with broad public health implications in an area, control of biological hazards, where OSHA has not been traditionally involved. Before we proceed, we intend to have the benefit of a full airing of the issues through the public comment process. The Agency's objective is to assure both professional and support staff a safe working environment.

3. Health Effects

Hepatitis B

Hepatitis B, a liver disease, is caused by the hepatitis B virus. Many people who are infected with HBV never have symptoms. The usual symptoms of acute infection are flu-like and include fatigue, mild fever, muscle and joint aches, nausea, vomiting, loss of appetite, abdominal pain, diarrhea, and jaundice. Many pregnant women who are acutely or chronically infected in the months before and after delivery transmit the virus to their children. Although most infected individuals recover, severe HBV infections may be fatal. Chronic carriers of the hepatitis B virus may develop a chronic hepatitis which may progress to cirrhosis, liver cancer, or death.

The usual modes of transmission of HBV are contaminated blood or blood products, sexual contact, needle-sharing, and from infected mother to infant. HBV is not transmitted by casual contact, touching or shaking hands, eating food prepared by an infected person, or from drinking fountains, telephones, toilets or other surfaces.

The CDC estimates that 300,000 new hepatitis B infections occur each year with about 18,000 occurring in health-care workers. Of these, approximately two-thirds (12,000) are estimated to be the result of occupational exposure. Approximately 3,000 of these 12,000 cases are clinically recognizable infections, 600 are hospitalized, and more than 200 die from acute and chronic effects of the infection. Nearly 10 percent of all those infected become long-term carriers of HBV.

A hepatitis B vaccine is available which is safe and effective in the prevention of HBV infection. This vaccine has been recommended by the CDC for persons at substantial risk of HBV infection, including health-care workers and emergency personnel (Ex. 4–9).

Acquired Immune Deficiency Syndrome

AIDS is a disease in which the human immunodeficiency virus invades the body, destroys the immune system and allows other infectious agents to invade the body and cause disease. Persons who are infected with HIV may have no symptoms, may have AIDS-related complex (ARC), or may show symptoms diagnostic of AIDS. Individuals with ARC may have enlarged lymph nodes and a fungal infection of the mouth (thrush), which may be accompanied by fatigue, weight loss, and mild to moderate immunological abnormalities. AIDS is frequently diagnosed when the patient develops an opportunistic infection, (an infectious disease which is only likely to occur when the immune system is depressed), such as *Pneumocystis carinii* pneumonia or malignancies such as Kaposi's sarcoma.

The usual modes of transmission of HIV, as with HBV, are sexual contact, needle sharing, infected blood or blood products, and from infected mother to infant. HIV is not transmitted by casual contact, touching or shaking hands, eating food prepared by an infected person, or from drinking fountains, telephones, toilets or other surfaces.

AIDS was first recognized in 1981. More than 40,000 cases of AIDS have been reported. An additional 1.5 million people are estimated to be carriers of the virus that causes AIDS but have no symptoms of the illness. Experts predict that by the end of 1991, the United States will reach a cumulative total of 270,000 AIDS cases. Infection with HIV, the virus that causes AIDS, appears to represent a small but real occupational hazard to health-care workers. Only a few such cases of infection have been reported to date (Ex. 6–153).

To date, no antiviral drugs are available to cure AIDS. However, antiviral drugs and vaccines are being researched. Prevention of transmission is currently the only approach to controlling this disease.

Cytomegalovirus

The AFSCME petition also discussed occupational exposure to cytomegalovirus (CMV) and its potential threat to pregnant women. CMV, an ubiquitous virus that infects most people in the United States at some time in their lives, usually does not cause recognizable illness. However, the virus can cause serious illness in congenitally infected newborns and in immunocompromised individuals where the virus may be an opportunistic pathogen. Congenitally infected newborns may have cytomegalic inclusion disease, a serious infection that involves the liver, spleen, and the central nervous system. Many AIDS patients have CMV infections, and their body fluids may contain cytomegalovirus.

4. Occupational Exposure to HIV and HBV

Hepatitis B and acquired immune deficiency syndrome are caused by viruses, infectious agents that are capable of human to human transmission. This transmission from one individual to another may result in infection and disease. A link has been established between occupational exposure to blood and other body fluids

and the transmission of both HIV and HBV. A common mode of occupational exposure has been a needlestick with a blood-contaminated needle. Cut injuries, caused by blood-contaminated sharp instruments, and splashes of contaminated blood onto non-intact skin or mucous membranes are other modes of occupational transmission.

Employees at risk of blood, body fluid, or needlestick exposures are at greater risk of infection with HBV or HIV. These include, but are not limited to nurses, physicians, dentists, and other dental workers, emergency room personnel, laboratory and blood bank technologists and technicians, phlebotomists, dialysis personnel, paramedics, emergency medical technicians, medical examiners, morticians, and others whose work involves close contact with patients or potential contact with their blood, with their body fluids, or with corpses. Other workers such as hospital housekeepers, hospital laundry workers, firefighters, and law enforcement officers may also be at risk when their duties result in exposure to contaminated blood.

5. State Plans

When a final federal standard is promulgated, the 25 states and territories with their own OSHA-approved occupational safety and health plans must adopt a comparable standard or amend their existing State standard, if not as effective as, the Federal standard, within 6 months. These states or territories are: Alaska, Arizona, California, Connecticut, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, the Virgin Islands, Washington, and Wyoming. (In Connecticut and New York, the plan covers only State and local government employees.)

6. Request for Comments

Public comment is requested to assist OSHA in its evaluation of the risks and methods of reducing occupational exposure to HBV and HIV. OSHA also requests that interested parties submit any pertinent health data not discussed in this notice. Comment is requested on the following issues relating to health effects, technological and economic feasibility, and provisions which should be considered for inclusion in a comprehensive standard. Specifically, scientific and technical data and expert analysis and opinion are sought on the following issues:

(1) Scope of coverage: There is evidence that workers such as health-care employees exposed to blood and other body fluids are at increased risk of infection with HBV and HIV. Are there employees in occupations other than health-care who are at risk for HIV and HBV infections and who should be included in any rulemaking? What types of facilities should be included under health-care facilities? Should coverage be limited to health-care facilities or expanded to cover other facilities such as mortuaries or infectious wastes operations?

(2) Public Sector Employees: OSHA has no direct jurisdiction over state and local governments which may employ health-care workers, emergency medical technicians, fire fighters, and law enforcement officers. However, the 25 states with approved State Plans will be required to extend their coverage to public employees who are at occupational risk for HBV and HIV infection. What public sector employees are at increased risk for HBV and HIV infection? How many of these individuals are located in states with approved State Plans? Are there conditions unique to any of these occupations that are not seen in the private sector? What items of personal protective clothing and equipment can be used to reduce the risk of occupational exposure? When should they be used? What work practices will reduce their exposure? What training is needed? What are current practices?

(3) Significance of Risk: How many employees are at risk for occupational exposure to HBV and HIV? What information should OSHA consider to assess potential health risks from exposure? Are there any data, such as medical records or unpublished studies not now in the record, that should be included in OSHA's decision-making process? Is there evidence that exposure to patients with cytomegalovirus presents an increased occupational risk for health-care workers, particularly pregnant health-care workers? If so, how should this risk be reduced?

(4) Modes of transmission: What is the risk of becoming infected as the result of a single or multiple exposure to blood or body fluids from individuals who are seropositive for HBV or HIV? What tasks in addition to those discussed place employees at risk of infection with HBV and/or HIV?

(5) Methods of Controlling Exposure: What current control technologies, work practices, or precautions are available or in use? How and when are they applied in specific work settings? How effective are they in preventing or reducing exposure? Are there situations when these work practices cannot or should not be employed? What is the extent of worker acceptance of these methods? What are their costs and what is the time necessary for their implementation? Should health-care facilities require that blood and body fluid precautions be followed for all patients? In addition to the guidelines published by OSHA, CDC, AHA, and AOMA, what other guidelines are available? To what extent are they followed? Are there specific medical instruments or other devices such as puncture resistant needle containers or self-sheathing needles available to reduce the potential for exposure? How can such devices reduce exposure? Where should these devices be located relative to their point of use? How much do they cost?

(6) Personal protective clothing and equipment: What barrier techniques are available to reduce the likelihood of infection? Under what conditions should gloves be used? When should eye protection and/or gowns be used? What additional clothing or equipment should be used? Should gowns or other clothing be fluid-proof or fluid-resistant? How often should gloves, gowns, eye protection or other equipment be changed? Should such equipment be cleaned and reused? Do adequate supplies of this clothing and equipment exist? What is the cost associated with this personal protective clothing and equipment?

(7) Vaccination programs: What are current practices for administering HBV vaccine to health-care employees? Should the employer be required to provide the hepatitis B vaccine to employees? If so, who should receive the vaccine? What possible risks are associated with the HBV vaccine? How many or what percentage of employees have already received the complete vaccine series? Are there circumstances where the vaccine is contraindicated? What are the elements of a successful vaccination program? What factors are associated with a high degree of employee compliance with such a program? What are the costs of a vaccine program? Are there any state or local government regulations that require vaccination against HBV?

(8) Management of needlestick/cut/splash injuries: These injuries are common occurrences in the health-care settings and are associated with the transmission of HBV and HIV. What is the appropriate management of such an injury when it results in exposure to blood from a patient known to be infected with HBV or with HIV? With blood from a patient of unknown status? Are these employees given the opportunity for voluntary antibody testing free of cost? How can the

confidentiality of the employee's test results or other pertinent medical information be assured?

(9) Medical surveillance: Is it necessary to establish medical surveillance programs for workers at risk of occupational exposure to HBV and HIV? Do employers currently provide specific procedures as part of medical surveillance for HBV and HIV? What is the basis for selecting these procedures? At what frequency are they performed? Is there evidence that risk is reduced due to implementation of medical surveillance programs? Should pregnant employees or women of childbearing age be subject to additional medical surveillance?

(10) Training and education: How are employees currently informed of the occupational hazards associated with HBV and HIV? How should employees be trained to ensure that they understand the nature of HIV and HBV infections and the ways to reduce the likelihood of occupational exposure to these viruses? How many employees currently received training? How often is or should this training be repeated? Are model training programs available? Should this training address occupational exposures only or should it address personal behavior that increase risks as well?

(11) Generic standards: Are there diseases other than hepatitis B and AIDS whose modes of transmission and methods of control are sufficiently similar to warrant including them in a "generic standard" for bloodborne diseases? If such a generic standard would be more appropriate than a limited one encompassing only hepatitis B and AIDS, what diseases should be included? To what extent are health-care workers at risk of contracting these diseases in their workplaces?

(12) Advances in hazard control: How could OSHA structure a standard on bloodborne diseases so that the standard would reflect, on a continuing basis, technological advances and other improvements in methods of control which were developed after promulgation of the standard? Similarly, is there any way OSHA could use a source outside the agency, such as guidelines published by the Centers for Disease Control, which are updated frequently, as indicative of what regulatory protections employers must provide for their employees?

(13) Effectiveness of Alternative Approaches: How can OSHA best accomplish its goal of ensuring that workers at significant risk are protected from occupational exposure to HIV and HBV? What additional protection would be afforded by a permanent standard, in light of the immediate on-going activities of DOL and HHS and existing regulations?

(14) Environmental Effects: The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, *et seq.*) the Council of Environmental Quality (CEQ) regulations (40 CFR Part 1500; 43 FR 55978, November 29, 1978), and the Department of Labor (DOL) NEPA Compliance Regulations (29 CFR Part 11; 45 FR 51187 *et seq.*, August 1, 1980) require that Federal Agencies give appropriate consideration to environmental issues and impacts of proposed actions significantly affecting the quality of the human environment. OSHA is currently collecting written information and data on possible environmental impacts that may occur outside of the workplace as a direct or indirect result of promulgation of a standard for occupational exposure to the viruses that cause hepatitis B and AIDS. Possible environmental impacts include hazardous infectious wastes that are generated as the result of medical, research or other related activities. Information submitted should include any negative or positive environmental effects that could result from the regulation. In particular, how would regulation of worker exposure to HBV and HIV alter ambient air quality, water quality, solid waste or land use?

7. Public Participation

Interested parties are invited to submit comments on any or all of these and other pertinent issues related to the development of a standard for HBV and HIV by January 26, 1988, in quadruplicate to the Docket Office, Docket No. H–370, Room N–3670, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC. 20210. All written comments submitted in response to this notice will be available for inspection and copying in the Docket Office at the above address between the hours of 8:15 am and 4:45 pm, Monday through Friday. All timely written submissions will be considered in determining the nature of any proposal.

List of Subjects in 29 CFR Part 1910

Occupational Safety and Health Administration, occupational safety and health; health; protective equipment, infectious diseases, AIDS, Acquired Immune Deficiency Syndrome, Hepatitis B.

Authority and Signature

This Advance Notice of Proposed Rulemaking was prepared under the direction of John A. Pendergrass, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Ave., NW., Washington, DC 20210. It is issued pursuant to section 6(b) of the Occupational Safety and Health Act (84 Stat. 1593; 29 U.S.C. 655).

Signed at Washington, DC this 24th day of November, 1987.

John A. Pendergrass,

Assistant Secretary.

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H.R. 3457 / Pub. L. 100–173

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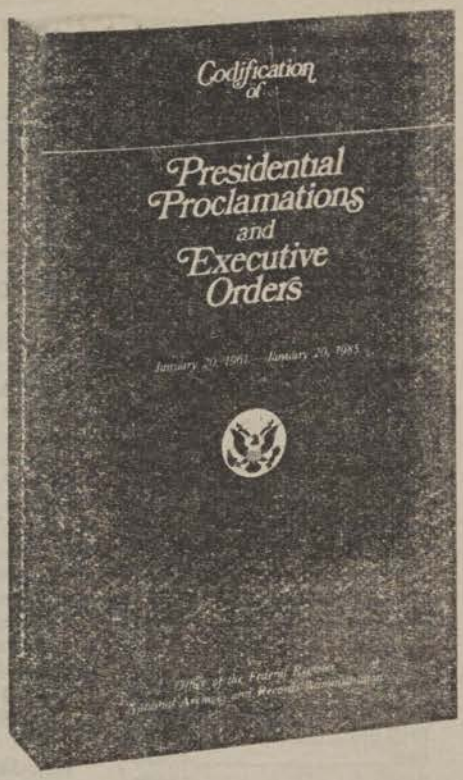

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