2-11-88
Vol. 53 No. 28
Pages 3997-4104

Federal Register

Thursday
February 11, 1988

Briefing on How To Use the Federal Register—
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers for $340.00 per year, or $170.00 for 6 months in paper form, or $188.00 per year, or $94.00 for six months in microfiche form, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or charge to your GPO Deposit Account or VISA or Mastercard.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 53 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202–783–3238
Magnetic tapes	275–3328
Problems with public subscriptions	275–3054

Single copies/back copies:

Paper or fiche	783–3238
Magnetic tapes	275–3328
Problems with public single copies	275–3050

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523–5240
Magnetic tapes	275–3328
Problems with Federal agency subscriptions	523–5240

For other telephone numbers, see the Reader Aids section at the end of this issue.

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.

WASHINGTON, DC

WHEN: February 19; at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: Roy Nanovic, 202–523–3187

Contents

Federal Register

Vol. 53, No. 28

Thursday, February 11, 1988

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
12 3997
301 3999
401 4006
656 4006
2902 4007
2903 4007
Proposed Rules:
456 4030

13 CFR
125 4008

14 CFR
21 4098

16 CFR
13 4009

21 CFR
558 4009

28 CFR
0 4010
Proposed Rules:
0 4034
71 4034

30 CFR
202 4011
203 4011
206 (2 documents) 4011, 4012
207 4011
210 4011
241 4011
931 4013

32 CFR
884 4014

33 CFR
100 4016
117 (2 documents) 4018, 4019
165 (2 documents) 4016, 4019

40 CFR
52 4020
65 4024
Proposed Rules:
86 4044

46 CFR
503 4027

48 CFR
Proposed Rules:
225 4044
252 4044

49 CFR
1206 4028
1249 4028

Rules and Regulations

Federal Register
Vol. 53, No. 28
Thursday, February 11, 1988

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 12

Highly Erodible Land and Wetland Conservation; Correction

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule; correction.

SUMMARY: This final rule amends the provisions of 7 CFR Part 12 which set forth the conservation system requirements under which the eligibility of a person, who has produced an agricultural commodity on highly erodible land, is determined for certain benefits provided by the United States Department of Agriculture, i.e., commodity price support or production adjustment payments, farm storage facility loans, disaster payments, payments for storage of grain owned by the commodity credit corporation, Federal crop insurance, and loans administered by the Farmers Home Administration, as required by Subtitles B and C of Title XII of the Food Security Act of 1985, Pub. L. 99–198, 16 U.S.C. 3801 *et seq.*, and makes typographical corrections to other provisions of 7 CFR Part 12.

EFFECTIVE DATE: February 11, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Sherman L. Lewis, Director, Conservation Planning Division, Soil Conservation Service (SCS), United States Department of Agriculture, P.O. Box 2890, Washington, DC 20013, telephone: (202) 382–1845. Copies of the environmental assessment and regulatory impact analysis prepared for promulgation of 7 CFR Part 12 are available through this office.

SUPPLEMENTARY INFORMATION: This rule has been developed pursuant to Subtitle B of Title XII of the Food Security Act of 1985 (the "Act"), 16 U.S.C. 3801 *et seq.* Those provisions of the Act remove the incentive that certain benefits from the United States Department of Agriculture (USDA or the Department) could otherwise provide persons to cultivate highly erodible land for the purpose of producing an agricultural commodity. Section 1211 of the Act, 16 U.S.C. 3811, provides generally that any person who produces, without an approved conservation system, an agricultural commodity on a field in which highly erodible land is predominant will be ineligible for commodity price support or production adjustment payments, farm storage facility loans, disaster payments, payments for storage of Commodity Credit Corporation-owned grain, or Federal crop insurance. Also, any such person will be ineligible for loans made, insured, or guaranteed under any provision of law administered by the Farmers Home Administration if it is determined that the proceeds of such loan will be used for a purpose that will contribute to excessive erosion of highly erodible lands.

This final rule amends, 7 CFR 12.5(b)(2) and (3), which were published in an interim rule on June 27, 1986 (51 FR 23496) and subsequently amended by an interim rule published on June 29, 1987 (52 FR 24132). As discussed in the preamble of the final rule publication of 7 CFR Part 12 of September 17, 1987 (52 FR 35196–35197), the amended portion has been moved from § 12.5 to § 12.23.

This final rule identifies the development base for the technical requirements for conservation plans and systems needed by persons who produce agricultural commodities on highly erodible cropland and desire to maintain eligibility to participate in certain USDA programs.

The technical requirements established by this final rule will be implemented by the Soil Conservation Service in carrying out their technical assistance responsibilities as specified in 7 CFR Part 12. Other portions of the highly erodible land and wetland conservation provisions of Part 12 are implemented by the Agricultural Stabilization and Conservation Service, the Commodity Credit Corporation, the Farmers Home Administration, the Federal Crop Insurance Corporation, Extension Service, as well as the Soil Conservation Service (SCS).

This rule has been reviewed under the USDA procedures established in accordance with provisions of Departmental Regulation 1515–1 and Executive Order 12291 and has been classified as "non-major." It has been determined that there will not be an annual effect on the economy of $100 million or more from implementation of the provisions of this rule. A regulatory impact analysis was prepared for the promulgation of 7 CFR Part 12, a section of which this rule amends. Copies of that regulatory impact analysis are available from the previously mentioned information contact office.

The titles and numbers of the Federal assistance programs to which this rule applies are: Commodity Loans and Purchases—10.051; Cotton Production Stabilization—10.052; Emergency Conservation Program—10.054; Emergency Loans—10.404; Farm Operating Loans—10.406; Farm Ownership Loans—10.407; Feed Grain Production Stabilization—10.055; Storage Facilities Equipment Loans—10.056; Wheat Production Stabilization—10.058; National Wool Act Payment—10.059; Beekeeper Indemnity Payments—10.060; Rice Production Stabilization—10.065; Federal Crop Insurance—10.450; Soil and Water Loans—10.416; Loans to Indian Tribes and Tribal Corporations—20.421, as found in the Catalog of Federal Domestic Assistance.

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

It has been determined that promulgation of this rule does not constitute a major federal action significantly affecting the quality of the human environment. An environmental assessment, dated September 1987, was prepared in conjunction with the development of the final rule regarding 7 CFR Part 12 in general, the interim amended rule, 7 CFR 12.23(a), and the related finding of no significant impact, which were published at 52 FR 35194 (September 17, 1987). The range of environmental effects considered in that environmental assessment recognizes the uncertainty which exists regarding: the extent of producer compliance with the requirements of the rule, the actual erosion control measures that persons will adopt to maintain eligibility for USDA program benefits, and the actual erosion reduction that may result from those control measures.

Based on review of the environmental assessment and finding of no significant impact prepared for the interim rule, it has been determined that implementation of this final rule will not significantly affect the quality of the human environment. Copies of the finding of no significant impact and environmental assessment are available from the information contact office previously mentioned.

Discussion of Comments and Changes

USDA received 242 letters responding to the interim rule amendment and request for comments issued on June 29, 1987. Entities responding included individuals, corporations, environmental groups, state and local governments, Federal agencies, farm commodity groups, financial institutions, members of Congress and others. Comments came from 37 states and the District of Columbia. Approximately 103 of the letters were form letters containing identical responses.

The background of this rule, including the reasons for and purpose of the amendment, is set forth in the preambles of the interim amendment of June 29, 1987 (52 FR 24132) and the final rule of September 17, 1987 (52 FR 35194, 35196–35197). This final rule is based upon USDA's experience in implementing these regulations since June 27, 1986, and the public's response to the interim rule amendment published June 29, 1987. Additionally, typographical errors in the final rule publication of September 27, 1987, have been discovered and corrections are made by this rule.

One hundred ninety-nine respondents, including 103 prescribed responses, favored reliance on the SCS field office technical guide requirements for conservation plans and systems rather than the rigid soil loss tolerance (T) and 2T requirements specified in the interim rule of June 26, 1986. Generally, these respondents stated that the amended interim rule allowed needed flexibility in developing conservation plans and conservation systems that would be based on local resource conditions, available conservation technology, and the cost-effectiveness of the required conservation treatment.

Thirty-nine respondents either had recommendations concerning the applicability of the change to highly erodible lands that had not previously been used to produce agricultural commodities prior to passage of the Act, or simply opposed the change. Those respondents who recommended changes to the amended interim rule recognized the need for a degree of flexibility in conservation plan and system requirements for existing highly erodible cropland, but had reservations about applying the flexible requirements to situations where non-cropped rangeland, native pastureland or woodland are newly cultivated, "broken out" or "sodbusted", for crop production. They indicated that landowners and users in those circumstances did not have a previously established and continuing economic dependence on the "broken out" land for crop production, nor an interest in protecting crop bases or for commodity support prices on the affected acreage.

Those who simply opposed the change in the rule were concerned that this action represented a general weakening of soil loss reduction standards and would place even more pressure on local SCS and conservation district officials to make more changes which would further reduce erosion reduction requirements.

The Department has determined that substantive changes in the rule are not warranted on the basis of either the comments received or the experience obtained as a result of promulgation of the interim rule. Conservation plan and system requirements for highly erodible land conservation purposes should continue to be based on the local SCS field office technical guide. The SCS field office technical guide is the agency's standard field document for recording the criteria, requirements, standards and considerations for planning and applying conservation treatment to the land. Reliance upon its use is the agency's method for practical field application of current, proven conservation technology and research. The guide blends conservation technology and research information with local, site-specific resource data to allow professional conservationists to develop practical and feasible conservation treatment alternatives for land users.

Traditionally, the SCS field office technical guide's primary criterion for judging the adequacy of erosion control have been estimates of erosion based on formulas for sheet and rill erosion by water and wind erosion relative to the presumed soil loss tolerance of a soil. The soil loss tolerance level is an approximation of the rate of erosion at which the productivity of a soil can be maintained indefinitely; in other words, the approximate point of nondegradation of the soil's productivity. Estimates of erosion rates are subject to the measurement limitations of the soil loss equations.

Use of the soil loss tolerance level in the design of acceptable resource conservation system alternatives is an excellent tool for establishing a quantitative goal for both the professional conservationist and landusers. Of course, the resulting conservation system may not be economically feasible and, therefore, may under the voluntary conservation programs, be modified to satisfy site specific conditions.

Under the conservation provisions of the Act, however, landusers who produce agricultural commodities on highly erodible cropland and want to maintain their eligibility for USDA program participation do not have the same freedom that the landuser has under the voluntary program. They must comply with the requirements as set forth in the field office technical guide or lose program eligibility. The Department believes that, for certain soil and crop situations, an alternative conservation system(s) should be included in the field office technical guide that will achieve a substantial reduction in existing soil loss levels, but at the same time be cost-effective for the given situation.

Accordingly, SCS has incorporated alternative conservation systems in the field office technical guides. These conservation systems are based upon current technology for controlling erosion with consideration given to the cost of attaining added increments of erosion control as the systems performance approaches a point of nondegradation of the soil resources. These systems will provide for nondegradation on approximately 85 percent (100 million acres) of the highly erodible cropland subject to the conservation compliance requirements of the Act. The balance of the highly erodible croplands will erode at levels slightly above the nondegradation level under the alternative systems while they are used for agricultural commodity production.

The conservation systems in the field office technical guide are reviewed by local agricultural and soil conservation groups and by the SCS National Technical Centers and are approved by the SCS state conservationist before they may be used in conservation plans and systems in order to comply with the Act.

Although the regulations are not being substantively changed by this final rule, the text of the rule has been changed as a result of the review of many of the comments, to clarify the applicability of the various conservation systems contained in the field office technical guide. Alternative conservation systems available for highly erodible cropland presently in crop production or that has a cropping history generally will not be applicable to those situations where

native vegetation, i.e., range land and woodland, are "broken out" for agricultural commodity production. For the most part, these lands are very fragile and very sensitive to increases in erosion. Additionally, as noted in the comments, persons who break out these lands are in a different position with regard to the economic consequences of implementing the conservation requirements than are those who have been using their land for commodity production, since crop bases or commodity price support eligibility are not yet established for the broken-out fields. Requiring the conservation systems on these lands to be more stringent than those applicable to existing cropland fields does not unfairly or unreasonably impose an economic hardship on producers who want to bring new land into production.

Conservation systems acceptable for use in "sodbusting" of highly erodible land in native vegetation will be documented in the field office technical guide. In most, if not all cases, they will consist of conservation systems prescribed by the field office technical guides for achieving and maintaining nondegradation of the soil resources.

List of Subjects in 7 CFR Part 12

Highly erodible land, Wetland conservation, Price support programs, Federal crop insurance, Farmers Home Administration loans, Incorporation by reference, Loan programs—Agriculture, Environmental protection.

Accordingly, Part 12 of Title 7 of the Code of Federal Regulations is amended as follows:

PART 12—HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION

1. The authority citation for Part 12 continues to read as follows:

Authority: 16 U.S.C. 3801–3823, 3841–3844.

§ 12.1 [Corrected]

2. Section 12.1(b)(3) is corrected by changing "Produce" to read "Reduce".

§ 12.2 [Corrected]

3. Section 12.2(a)(28) is corrected by changing "hydric soild" to read "hydric soil".

§ 12.5 [Corrected]

4. Section 12.5(c) is amended by deleting the word "this" where it appears in front of the term "paragraph (b)(3)".

5. Section 12.23(a) is revised to read as follows:

§ 12.23 Conservation plans and conservation systems.

(a) A conservation plan or a conservation system developed for the purposes of § 12.5(b) must be based on and in conformity with the SCS field office technical guide. For highly erodible croplands which were in production prior to December 23, 1985, the applicable conservation systems in the field office technical guide are designed to achieve substantial reductions in soil erosion, taking into consideration economic and technical feasibility and other resource related factors. For highly erodible lands that are converted from native vegetation, i.e., rangeland or woodland, to crop production after December 23, 1985, the applicable conservation systems in the field office technical guide are designed to control soil losses to a level that will attain or approximate the soil loss tolerance level. Any conservation plans or systems that were approved prior to February 11, 1988, are deemed to be in compliance with this paragraph.

* * * * *

6. Section 12.31(c)(3)(i) is amended by revising the second sentence to read as follows:

§ 12.31 Wetland identification criteria.

* * * * *

(c) Artificial wetland. * * *

(3) * * *

(i) *Plant classification.* * * *. Obligate species are expected to occur in wetlands more than 99 percent of the time; facultative wet species, 66–99 percent of the time; facultative species, 33–65 percent of the time; facultative upland species, 1–32 percent of the time; and upland species, less than 1 percent of the time.

* * * * *

Signed at Washington, DC, on January 13, 1988.

Richard E. Lyng,

Secretary.

[FR Doc. 88–2887 Filed 2–10–88; 8:45 am]

BILLING CODE 3410-01-M

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 88–001]

Movement of Citrus Fruit From Florida

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: Before the effective date of this final rule, fruit regulated because of citrus canker could not be moved interstate from Florida to commercial citrus-producing areas of the United States. This final rule allows fruit regulated because of citrus canker to be moved interstate from Florida to any destination in the United States, including commercial citrus-producing areas, under certain conditions. This action is necessary to relieve unnecessary restrictions on the interstate movement of fruit that presents a negligible risk of causing the interstate spread of citrus canker. This final rule also clarifies our requirements for moving regulated fruit interstate of parts of the United States that are not commercial citrus-producing areas.

EFFECTIVE DATE: February 9, 1988.

FOR FURTHER INFORMATION CONTACT: Eddie W. Elder, Chief Operations Officer, Domestic and Emergency Operations Staff, Plant Protection and Quarantine, APHIS, USDA, Room 610, Federal Building, 6505 Belcrest Road, Hyattsvile, MD 20782; 301–436–6365.

SUPPLEMENTARY INFORMATION:

Background

Citrus canker is a plant disease caused by strains of the bacterium *Xanthomonas campestris* pv. *citri* (Hasse) Dye. The disease is known to affect plants and plant parts including fruit, of citrus and citrus relatives (Family Rutaceae). It can cause defoliation and other serious damage to the leaves and twigs of susceptible plants. It may also make the fruit of diseased plants unmarketable by causing lesions on the fruit. Infected fruit may also drop from trees before reaching maturity. Some strains of citrus canker are an aggressive disease that can infect susceptible plants rapidly and lead to extensive economic losses in citrus growing areas.

To help prevent the spread of this disease, we regulate the interstate movement of certain plants, plant parts, and other articles from areas of the United States quarantined because of citrus canker. These regulations are contained in 7 CFR Part 301.75 and are referred to below as the regulations.

Regulated articles include plants or plant parts, including fruit and seeds, of all species, clones, cultivars, strains, varieties, and hybrids of the general *Citrus* and *Fortunella;* and all clones, cultivars, strains, varieties, and hybrids of the species *Poncirus trifoliata* (which includes lemon, pummelo, grapefruit, key lime, persian lime, tangerine, satsuma, tangor, citron, sweet orange, sour orange, mandarin, tangelo, ethrog, kumquat, limequat, calamondin, and trifoliate orange); and any other product,

article, or means of conveyance when an inspector determines that it presents a risk of spreading citrus canker and the person in possession of the product, article, or means of conveyance has actual notice that it is subject to the regulations.

Before the effective date of this final rule, regulated fruit could be moved interstate from a quarantined area: (1) With a permit for scientific or experimental purposes; or (2) with a limited permit to areas of the United States that are not commercial citrus-producing areas.

Florida is the only area of the United States quarantined because of citrus canker. Commercial citrus-producing areas are American Samoa, Arizona, California, Florida, Guam, Hawaii, Northern Mariana Islands, Puerto Rico, Texas, Virgin Islands of the United States, and the portion of Louisiana south of a line formed by the following interstate highways. Beginning on Interstate 10 at the western boundary of the state, extending to the junction of Interstate 10 and Interstate 12 in East Baton Rouge Parish, extending on Interstate 12 to the junction of Interstate 10 and Interstate 12 in St. Tammany Parish, and extending on Interstate 10 to the Mississippi state line.

On September 17, 1987, we published in the **Federal Register** [52 FR 35105–35111, Docket No. 86–347] a proposal to allow fruit regulated because of citrus canker to be moved interstate, with a certificate, to any destination in the United States, including commercial citrus-producing areas, under certain conditions. We also proposed to clarify our requirements for moving regulated fruit interstate, with a limited permit, to parts of the United States that are not commercial citrus-producing areas.

Between the time the proposed rule was published and the close of the comment period on November 2, several infestations of citrus canker caused by Florida nursery strains [1] were discovered. These infestations could not be traced to previous infestations. Although commenters addressed various aspects of our proposal, many of their concerns were prompted by the new detections. A number of commenters maintained that, because of these outbreaks, we should not implement our proposed rule at this time. We agreed, believing that the citrus canker situation in Florida needed to be reassessed in light of the new finds, and we withdrew our proposed rule in a document published in the **Federal Register** on January 5, 1988 [53 FR 140, Docket No. 87–166].

Subsequently, we thoroughly reconsidered the matter and discussed it with experts within the Department. Based on our further review of all the available relevant information, we have concluded that the original proposal, with certain clarifications and modifications, would be adequate to prevent the interstate spread of citrus canker from Florida. We have determined that the risk of spread of citrus canker, if any, from fruit shipped under the proposal would be negligible. This conclusion is consistent with the position taken by the Special Task Force on Citrus Canker in Florida, after extensive testimony was presented by experts on the current state of research related to the Florida nursery strains of citrus canker and the risk of spread of citrus canker from Florida under the proposed regulations.

Therefore, with the exception of the changes discussed below, we have adopted the provisions of the proposed rule of the reasons set forth in the proposal and in this supplementary information section.

Comments

We invited written comments on our proposed rule, stipulating that they had to be postmarked or received on or before November 2, 1987, and held three public hearings: in Los Angeles, California, on October 5, 1987; in McAllen, Texas, on October 7, 1987; and in Lake Alfred, Florida, on October 9, 1987.

We received 40 written comments, and 41 persons commented at the public hearings. (Several of the written comments were from persons who spoke at the public hearings. One written comment was a petition signed by 19 individuals; we have counted it as one comment.) The comments were from citrus growers, plant scientists, state agricultural officials, members of Congress, and various other interested persons. Twenty commenters generally supported the proposed rule. Fifty commenters either opposed the proposed rule because of its provisions to allow regulated fruit to be moved to commercial citrus-producing areas of the United States, or they opposed various parts of the proposed rule related to these provisions. All comments were carefully considered, and objections are discussed in this supplementary information section.

Definition of Citrus Canker

Five commenters requested that we clarify the definition of "citrus canker" by indicating that it is a disease caused by all strains of *Xanthomonas campestris* pv. *citri*, including the Florida nursery strains. We have done so.

Strain Identity

One commenter stated that we should address strain identity.

We agree that strain identity should be addressed.

As proposed, regulated fruit from the area comprised of Manatee, Pinellas, and Sarasota counties and Hillsborough County south of State Road 60 will not be eligible for interstate movement to commercial citrus-producing areas until 2 years after the last infested plant in that area has been destroyed. We explained in the supplementary information section to the proposed rule that "A" strains of citrus canker have been found in this area of Florida. The "A" strains, or Asiatic strains, are very aggressive strains of *Xanthomonas compestris* pv. *citri* that are known to infect mature trees and commercial varieties of citrus fruit.

The protocol for moving regulated fruit interstate to commercial citrus-producing areas applies only to those areas of Florida outside the area affected by the Asiatic strains. That is, it applies to areas of Florida where (1) citrus canker has not been found or (2) citrus canker had been detected, but the causal bacteria has been identified as a Florida nursery strain.

Florida nursery strains are pathogenically and genetically different from the Asiatic strains that cause citrus canker. Citrus canker caused by the Florida nursery strains has been found primarily on young plants in nursery settings. The symptoms shown by plants infected with the Florida nursery types are somewhat different from the symptoms usually associated with the citrus canker caused by the Asiatic strains. Also, although the Florida nursery strains can cause lesions on leaves, stems, and twigs of susceptible plants, there is only one known instance of these strains infecting fruit under natural conditions. Even so, the fruit was not a commercial variety but was fruit of seed source trees of *Poncirus trifoliata* that were located at a nursery. Commercial varieties of citrus fruit have been infected with Florida nursery strains only by experimental methods and under laboratory and greenhouse conditions. At this time, there is no experimental evidence, based on

[1] The Florida nursery strains of the bacterium *Xanthomonas campestris* pv. *citri* are associated primarily with outbreaks of citrus canker in plant nurseries. They have been found only in Florida. Current information suggests that this form of citrus canker is pathogentically and genetically different from the disease caused by Asiatic strains of citrus canker, and never has been found on fruit in a commerical gro-

scientific research, to show that the Florida nursery strains would infect commerical varieties of citrus fruit under field conditions.

To clarify that the protocol for moving regulated fruit interstate to commecial citrus-producing areas will not apply to areas of Florida affected by Asiatic strains, we have revised proposed § 301.75–7(h), "Fruit ineligible for interstate movement with a certificate." This paragraph now states:

(h)(1) Regulated fruit from any area of Florida where a primary infestation caused by Asiatic strains has occurred will not be eligible for interstate movement with a certificate until 2 years after the last infested plant in the area has been destroyed.

(2) Primary infestations caused by Asiatic strains have occurred in the area of Florida comprised of Manatee, Pinellas, and Sarasota counties, and Hillsborough County south of State Road 60.

We specify "primary infestation" in the above paragraph to distinguish infestations that originate or become established in an area from those that do not. For example, one potted plant infected with a Florida nursery strain was found at one location in Indian River County in 1984; however, the plant was traced to an infested nursery in central Florida, had not been replanted or even removed from its original container, and caused no subsequent infestations. In this incident, the potted plant was not a primary infestation. We have defined primary infestation in § 301.75–1 as "An infestation that originates in a particular location or that spreads to other plants after being introduced at a particular location."

Risk of Fruit Transmitting Citrus Canker

Several commenters asserted that we should not implement our proposed rule because the Florida nursery strains can infect fruit and this fruit could spread citrus canker to commerical citrus-producing areas of the country.

As explained above, there is no evidence at this time to indicate that the Florida nursery strains have infected commercial varieties of citrus fruit under field conditions. We recognize, however, that experience or ongoing research may provide this evidence. That is why certain requirements must be met before regulated fruit may be moved interstate to commercial citrus producing areas of the country.

Briefly, the requirements contained in § 301.75–7(b) provide that an inspector will issue a certificate for the interstate movement of regulated fruit only if: (1) the fruit is harvested from a grove that has had no infested or exposed plants or plant parts for at least 2 years; (2) the grove is at least one half mile from any property that has contained infested or exposed plants or plant parts during the past 2 years; and (3) all plants within one-half to 5 miles of the grove that are infested or at high risk for developing citrus canker because of exposure to an infestation have been destroyed. This section contains specific requirements for surveying the grove and surrounding properties, as well as other requirements related to the origin of nursery plants added to a grove, inspections of nurseries, cleaning and disinfection of personnel, vehicles, and equipment entering a grove, maintaining the identify of the fruit during picking, hauling to packing houses, and packing and treating fruit.

In addition, our final rule requires that 100 percent of the regulated plants at all nurseries in the state that contain regulated plants must be examined by an inspector approximately every 30 days.

Since citrus canker was detected in Florida in 1984, there has been a comprehensive program to inspect all nurseries in Florida that contain regulated plants. The surveys involve inspectors examining all regulated plants in each nursery at least every 30 days. Our experience has been that, when citrus canker caused by a Florida nursery strain has been present in a nursery, inspectors have always found the disease by the third survey. Based on this experience, we are requiring nurseries to be found free of citrus canker on three surveys before shipping stock. The policy of requiring nurseries to be surveyed approximately every 30 days is based on the fact that there is an incubation period between the time of infection and the development of visually detectable symptoms. Repeated inspections, approximately monthly, cover this contingency.

Most of the detections of citrus canker in Florida have been the result of these surveys. In the only three instances where citrus canker caused by Florida nursery strains has been found in groves, the infected plants were found on surveys following the movement of exposed plants. These plants were transplants from infested nurseries. In two of these instances, there was no evidence that citrus canker had spread from these plants to other plants in the grove. In the third case, the grove was not well maintained, and the surveys detected some local spread to sprouts from Swingle root stock. In none of these instances was any infected fruit found, and, after the infected plants were removed, no additional infections were observed. This experience demonstrates the effectiveness of the nursery surveys and other surveys that may be triggered by them.

Furthermore, when citrus canker has been found in a nursery, it has been found at very low levels—only a few plants out of thousands. Based on the low incidence of infected plants and the early stage of the disease at the time of detections, it appears that these surveys are extremely effective in detecting the disease.

Because of the high sensitivity of the nursery surveys, we believe these surveys provide the best single indicator of those areas in Florida where citrus canker may be present. Therefore, we believe the interstate movement of regulated fruit to commercial citrus-producing areas of the United States must be contingent upon these surveys being continued.

We believe our requirements for fruit certification, strengthened in this final rule, will (1) minimize the risk of citrus canker being introduced into a grove; (2) maximize our ability to detect citrus canker at a very early stage if it is introduced into a grove; (3) reduce the negligible risk of regulated fruit spreading citrus canker interstate to commercial citrus-producing areas.

Significance of the Recent Detections of Citrus Canker

Many commenters maintained that we should not implement our proposal because the eight new finds of citrus canker this past fall indicate that we do not know enough about the Florida nursery strains. A number of commenters also asserted that, because citrus canker may not be detected by visual inspection during its dormant stage, we should postpone action on the proposal until no additional citrus canker is detected for a certain period of time. The period of time suggested by commenters ranged from 18 months (5 commenters) to 5 years (1 commenter), with most commenters (8) advocating 2 years.

As previously indicated, we have determined that our protocol in the regulations for qualifying fruit for a certificate is adequate to prevent the interstate spread of citrus canker.

As explained above, we have not found commercial varieties of citrus fruit infected with Florida nursery strains under field conditions, and the risk of spread of citrus canker from fruit shipped under our protocol is negligible. The multiple safeguards prescribed in our protocol for qualifying fruit for a certificate will reduce the risk even further.

Moreover, the protocol assumes that citrus canker could be present in a grove

but dormant, or at low levels, and therefore be undetectable by visual surveys. The very first requirement stipulates that groves producing fruit for certification cannot have had any infested or exposed plants for at least 2 years. Two years was chosen because it is the period of time during which we would expect to find visible symptoms of citrus canker if it were present in a grove. A grove that has been free of infested or exposed plants for 2 years would be unlikely to contain even low levels of infestation.

We also require that all shipments of nursery plants received by the grove during the past 2 years must have come only from nurseries found free of citrus canker on multiple surveys. The grove also must be at least one-half mile from any property that has contained infested or exposed plants or plant parts during the past 2 years. Again, we recognize that symptom expression may be delayed for up to 2 years, and we have factored this into the regulations.

Nevertheless, we agree that if citrus canker were introduced into a grove, visual surveys probably would not detect it at low levels. These low levels of infestation, however, would be unlikely to cause infection in fruit. By the time the infestation in a grove reached a level where significant amounts of fruit were put at risk for becoming infected, it also would begin to produce enough visible symptoms to allow detection of the infestation on surveys.

Although undetectable levels of citrus canker could cause surface contamination of fruit, treating the fruit would destroy most of the bacteria present, and waxing would trap and render harmless any remaining bacteria for the relatively short time they might survive. Both treating and waxing are required for all fruit moved interstate with a certificate.

Therefore, we find no reason to either abandon or significantly modify our protocol as a result of the comments.

Surveys

Many commenters contended that we should not implement the proposed rule because the surveys would be unworkable and inadequate to detect citrus canker. Some commenters also stated that they did not believe we had enough inspectors to perform the required surveys.

The surveys, as proposed, are a continuation of an existing survey program in Florida, which forms the basis for the current movement of fruit under limited permit. These surveys are a prerequisite to certification of fruit.

While we are not depending entirely on surveys to detect citrus canker if it is present in a grove, the surveys are an integral part of the protocol set forth in the proposed regulations which was extensively reviewed by scientific experts. They have concluded, as indicated above, that the protocol is sufficient to prevent the interstate spread of citrus canker on fruit.

We have, however, made two changes to the survey protocol in response to comments:

Some commenters maintained that the surveys should be conducted "following a flush of growth" or "at periods coinciding with symptom expression."

Our proposal stipulated that at least one of the two required grove surveys be conducted during weather conditions (high temperatures and frequent rainfall) that an inspector determines are conducive to the development of citrus canker. Our intent was to require at least one survey to be conducted during a time coinciding with symptom expression, which would be following a flush of growth. We have clarified this in the final rule by requiring at least one of the two surveys to be conducted between 4 to 12 weeks after a period of high temperatures and frequent rainfall likely to cause a flush of growth on regulated trees.

Some comments said that "drive-bys" at 3 m.p.h. were too fast. We agree and have changed the final rule to require the inspections to be conducted at 2 m.p.h.

Determining Whether Groves and Surrounding Properties Have Been Free of Infested or Exposed Plants

Two commenters questioned the ability of inspectors to determine whether any infested or exposed plants have been moved to a grove or surrounding properties.

The State of Florida requires nurseries to maintain extensive records, which, should the disease be detected in a nursery, would be adequate to determine where potentially infected or exposed plants from that nursery had been moved. These records would allow the Joint State-Federal Citrus Canker Eradication Project to determine whether any infected or exposed plants had been moved out of an infested nursery and to take regulatory actions to remove groves from the certification program if necessary.

Sources of Infection from Early Movements

One commenter said that the proposed rule should not be implemented until we had completed risk assessment of nursery stock from the Ben Hill Griffin Blue Jordan nursery, where citrus canker caused by the Florida nursery strains had been detected. All nursery plants that may have been exposed or infected as a result of this outbreak have now been traced.

One commenter stated that we should not implement the proposed rule because not all transplants shipped from infested nurseries "early in Florida's fight against citrus canker" were traced. The commenter is apparently referring to plants moved from certain nurseries found infested in 1984. Although some plants were not traced, we do not believe this is cause for postponing or cancelling the proposed rule. These plants may or may not have been exposed or infested. If any were infected or developed infections, these plants would have developed visible symptoms before now. In most of Florida, particularly the citrus-producing areas, all residential properties and commercial groves containing regulated plants have been surveyed at least twice. An intensive public relations campaign has also been underway since 1984 to inform all Florida property owners about citrus canker. Given this scenario, it is unlikely that transplants shipped from nurseries in 1984 remain today as sources of infection in Florida.

Effect of New Outbreaks

Several commenters asserted that in case of suspicious samples or new outbreaks of citrus canker, we should discontinue the interstate movement of certified fruit until the status of the suspicious samples was determined or an evaluation was made of the new outbreak.

We would carefully examine and seriously consider the risks associated with any new finds of citrus canker in Florida and take appropriate action.

If citrus canker were found in a grove, fruit from that grove would be ineligible for certification for at least 2 years.

Qualifications of Inspectors

Several commenters asserted that individual inspectors either were not qualified to make all the determinations proposed or could not handle the workload. Some commenters maintained that inspectors should be plant pathologists.

Again, we must point out that many of the determinations are made by the Joint State-Federal Citrus Canker Eradication Project based on records required by the State of Florida.

Furthermore, all inspectors receive adequate orientation and training, and, where necessary, plant pathologists do

perform the work. For example, project decisions involving risk assessments are based on the recommendations of a team of experts, including plant pathologists.

Monitoring

Several commenters said greater assurances were needed that there would be compliance with provisions of the proposed rule.

The Joint State-Federal Citrus Canker Eradication Project monitors compliance with the requirements for moving citrus fruit interstate from Florida. Should it be determined that the effectiveness of these requirements were jeopardized by noncompliance with the regulations or with those state requirements essential to the regulations, we would take appropriate action, which could include suspending certification.

Maintaining the Identity of Fruit

Several commenters asserted that we need a protocol to ensure that the identity of fruit to be moved with a certificate is maintained.

The Joint State-Federal Citrus Canker Eradication Project has requirements for maintaining the identity of fruit during picking, hauling to the packing house, and packing. The requirements stipulate use of harvesting permits and, for fresh fruit, use of identification tags indicating the origin of each field box containing fruit. These documents serve to identify the fruit from the grove and through the packing process.

Risk of Fruit Contamination at Packing Houses

Two commenters expressed concern that fruit eligible for certification might become contaminated in a packing house that also processed fruit ineligible for certification.

We believe this protential contamination presents no additional risk because it would be surface contamination only and the fruit would be subsequently treated and waxed.

Movement of Noncertified Fruit to Citrus-Producing Areas

Several commenters argued that allowing some fruit to move to citrus-producing areas of the United States would increase the risk of fruit ineligible for this movement ending up in these areas.

We believe the opposite is true. Because the certification program would allow desirable varieties of Florida fruit to be legally moved into citrus-producing areas, there would be less incentive for people to take Florida fruit into these areas illegally.

Another commenter suggested that additional safeguards, such as public education and public service campaigns, be implemented to further decrease the chances that fruit ineligible for certification might be shipped to citrus-producing areas. Public information campaigns have been in place in Florida since 1984, and warnings are posted in public areas such as airports and post offices.

Preamble

Some commenters were concerned about the omission from the proposed rule of a preamble that had been included in a preliminary recommendation on guidelines for fruit certification prepared by a group of plant pathologists. This preamble was intended to clearly indicate that a program for certification of fresh fruit would only be appropriate where an effective national eradication program was being conducted.

We believe the inclusion of this preamble is unnecessary because the regulations apply only to the current infestation in the State of Florida.

Groves of Fewer Than 10 Trees

Two commenters requested that we allow fruit from groves of fewer than 10 trees to be moved interstate to areas of the United States that are not commercial citrus-producing areas. Our rule permits this in accordance with the requirements for movement with limited permit.

One commenter complained about the cost of having dooryard fruit treated before it could be sent with limited permit to areas that are not commercial citrus-producing areas. The cost of treatment is about $3 to $4 a bushel. We have examined this issue and found no less costly method of fruit treatment available that would provide the same degree of protection.

Limited Permits

Four commenters requested that we change the requirements for limited permit to allow exposed plants to remain in a grove if they are not at high risk for disease development.

After consulting with plant pathologists and regulatory officials knowledgeable in this area, we have determined that this action would not result in any significant increase in the risk of spreading citrus canker.

We have agreed that identification of plants at high risk for developing citrus canker will be based on an evaluation of all circumstances related to their exposure, including, but not limited to, the following: (1) The stage of maturity of the exposed plants at the time of exposure; (2) the size and degree of infestation to which the plants were exposed; (3) the proximity of the exposed plants to the infested plants at the time of exposure; (4) the length of time the plants were exposed to the infestation; and (5) the strain of bacterium to which the plants were exposed. Any plants determined to be at high risk for disease development must be destroyed if the fruit from the grove is to be moved interstate.

Definition of Grove

One commenter requested that we clarify the definition of "grove" by specifying that a grove is separated from other trees by a boundary, such as a fence, stream, road, canal, irrigation ditch, hedgerow, open space, or a sign or marker denoting change of fruit variety, that is identifiable to an inspector as the boundary of the grove. The proposed rule did not include "sign or marker denoting change of fruit variety" as a possible boundary. We have made this change.

Other Comments

One commenter said that hurricanes could spread citrus canker in Florida. This may or may not be true, but we have procedures in place to detect infestations of citrus canker. We also have safeguards in place to ensure that fruit moved interstate from Florida presents a very insignificant risk of spreading citrus canker.

One commenter argued that the proposed rule should not be implemented because grapefruit, the major citrus crop in Texas, is particularly susceptible to Strain "A". These regulations do not allow certification of fruit from any area in Florida where we believe Strain "A" may be present.

Miscellaneous Changes

We also have replaced the term "Deputy Administrator" wherever it appeared in § 301.75 with the term "Administrator" to reflect internal agency policy, and have made nonsubstantive editorial changes for clarity.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers,

individual industries, federal, state, or local government agencies, or geographic regions and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Our rule allows regulated fruit from groves of 10 or more trees to be moved interstate from Florida to any destination in the United States, including commercial citrus-producing areas. Previously, this fruit could be moved interstate only to parts of the United States that were not commercial citrus-producing areas.

This change in the regulations will provide additional markets for some Florida fruit. However, the amount of fruit affected is relatively small. Most regulated Florida fruit is processed for juice within the state. Less than 20 percent of regulated Florida fruit is consumed as fresh fruit, and much of this is consumed within the state or is exported to foreign countries.

Figures from the State of Florida Department of Citrus show that in 1983–84, the last complete season before Florida was quarantined for citrus canker, the amount of fresh citrus shipped to Arizona, California, Louisiana, and Texas was 4.3% of the fresh citrus shipped to all states combined. We do not expect that our rule will result in any increase in this percentage.

Our rule will not allow regulated fruit from groves to fewer than 10 trees to be moved interstate to commercial citrus-producing areas because we do not have the personnel or funds to provide the necessary services to certify fruit from the thousands of small groves in Florida. However, we do not expect this limitation to have any significant economic effect on small-grove owners since, in the past, most regulated fruit moved interstate from Florida as fresh fruit has gone to areas of the United States that are not commercial citrus-producing areas. Owners of dooryard, or backyard, trees, in particular, ship fresh fruit interstate primarily as gifts to relatives or friends in parts of the United States where citrus is not grown.

Our rule also allows fruit from groves of fewer than 10 regulated trees to be moved interstate with a limited permit only if it goes directly to a household, with the intent that the fruit be consumed at, or by members of, that household. Most groves of fewer than 10 regulated trees are on residential properties and are not maintained for profit. Fruit from these groves generally is consumed locally or, as noted above, is delivered as gifts to relatives or friends. Therefore, we do not expect this restriction to have any significant economic effect on small-grove owners.

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

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), we have submitted the information collection provisions in this final rule to the Office of Management and Budget (OMB) for approval. You may send written comments on these provisions to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please send a copy of your comments to Steven B. Farbman, Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

Executive Order 12372

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

Effective Date

The Acting Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon signature. This action is necessary to relieve unnecessary restrictions on the interstate movement of certain fruit from Florida. Because the shipping season for this fruit has begun, delays in making the rule effective could cause substantial economic losses for some persons.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Citrus canker, Plant disease, Plant pests, Plants (Agriculture), Quarantine, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we have amended Part 301 as follows:

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

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

§§ 301.75 through 301.75–16 [Amended]

2. In §§ 301.75 through 301.75–16, footnotes 2 and 5 and all references to them are removed, and footnotes 3 and 4 and all references to them are redesignated 2 and 3, respectively.

3. In §§ 301.75 through 301.75–16, wherever the term "Deputy Administrator" appears it is replaced by the term "Administrator".

4. In § 301.75–1, the term "Infestation or infested" is revised to read "Infestation" the definitions for "Citrus canker" and "Grove" are revised and definitions for "Administrator," "Exposed," "Infested," "Primary infestation," and "Regulated fruit, regulated plants, regulated seed, or regulated trees" are added in alphabetical order to read as follows:

§ 301.75–1 Definitions.

* * * * *

Administrator. The Administrator of the Animal and Plant Health Inspection Service or any person authorized to act for the Administrator.

* * * * *

Citrus canker. A plant disease caused by all strains of the bacterium *Xanthomonas campestris* pv. *citri* (Hasse) Dye, including the Florida nursery strains.

* * * * *

Exposed. Suspected by an inspector of containing the bacterium that causes citrus canker because of proximity to an infestation.

Grove. Any stand of trees maintained for the purpose of producing fruit and separated from other trees by a boundary, such as a fence, stream, road, canal, irrigation ditch, hedgerow, open space, or sign or marker denoting change of fruit variety, that is identifiable to an inspector as the boundary of the grove.

Infested. Containing the bacterium that causes citrus canker.

Infestation. The presence of citrus canker or the existence of circumstances that make it reasonable for an inspector to believe that citrus canker is present.

* * * * *

Primary infestation. An infestation that originates in a particular location or that spreads to other plants after being introduced at a particular location.

* * * * *

Regulated fruit, regulated plants, regulated seed, or regulated trees. Fruit, plants, seed, or trees defined as a regulated article.

* * * * *

5. In § 301.75–7, paragraph (a) introductory text, is revised; paragraphs (b), (c), (d), (e), and (f) are redesignated as paragraphs (c), (d), (e), (f), and (g);

new paragraphs (b) and (h) are added; headings are added before the introductory text in newly redesignated paragraphs (d), (e), (f), and (g); and newly redesignated paragraph (c) is revised to read as follows:

§ 301.75–7 Issuance and cancellation of certificates and limited permits.

(a) *Certificates for interstate movement of seed.* A certificate will be issued for the interstate movement of regulated seed only if an inspector * * *.

(b) *Certificates for interstate movement of fruit.* A certificate will be issued for the interstate movement of regulated fruit only if an inspector determines that the fruit is eligible for a certificate in accordance with paragraph (h) of this section and all of the following conditions are met:

(1) The fruit is harvested from a grove of 10 or more regulated trees;

(2) The grove producing the fruit has not contained any infested or exposed plants or plant parts within the past 2 years;

(3) The grove producing the fruit has been found free of citrus canker on two surveys, which must be conducted as follows:

(i) Between one year and 90 days before harvest begins, an inspector must: examine all trees on the perimeter of the grove while driving by the trees at a speed of not more than 2 m.p.h.; examine, while on foot, at least 12 trees in high-risk areas of the grove (such as the grove entrance, the perimeter of the grove, and areas where the movement of people and equipment is concentrated); and examine, while on foot, a minimum of four mature trees or eight young trees in one randomly selected location in every 10 acres of the grove, or, if the grove is less than 10 acres, examine, while on foot, a minimum of four mature trees or eight young trees in one randomly selected location; and

(ii) No more than 90 days before harvest begins, an inspector must walk through the grove and examine: all trees on either side of the first middle (between the first two rows) and every fourth middle thereafter throughout the grove; and at least 12 trees in high-risk areas of the grove (such as the grove entrance, the perimeter of the grove, and areas where the movement of people and equipment is concentrated); and

(iii) At least one of the two surveys must be conducted between 4 to 12 weeks after a period of high temperatures and frequent rainfall likely to cause a flush of growth on the trees to be inspected;

(4) The grove producing the fruit is at least one-half mile from any property that has contained infested or exposed plants or plant parts during the past 2 years;

(5) Within one-half to 5 miles to the grove producing the fruit, the following plants have been destroyed:

(i) All infested plants; and

(ii) Any exposed plants at high risk for developing citrus canker. Identification of plants at high risk for developing citrus canker will be based on an evaluation all of the circumstances related to their exposure, including, but not limited to, the following:

(A) The stage of maturity of the exposed plants at the time of exposure;

(B) The size and degree of infestation to which the plants were exposed;

(C) The proximity of the exposed plants to the infested plants at the time of exposures;

(D) The length of time the plants were exposed to the infestation; and

(E) The strain of the bacterium to which the plants were exposed;

(6) During the past 2 years, any shipments of regulated plants received by the grove producing the fruit have come only from nurseries found free of citrus canker on three surveys conducted by an inspector approximately 30 days apart and not more than 90 days before each shipment, and every regulated plant in the nursery must be examined on each survey. In addition, all regulated plants at all nurseries in Florida that contain regulated plants must be examined by an inspector approximately every 30 days;

(7) Properties within 5 miles of the grove producing the fruit were surveyed and found free of citrus canker by an inspector at least one time during the past year as follows:

(i) All properties that contain 10 or more regulated plants and that are within 5 miles of the grove;

(ii) All properties that contain one to nine regulated plants and that are within one-half mile of the grove; and

(iii) Twenty percent of the properties that contain one to nine regulated plants and that are within one-half to 5 miles of the grove. The 20-percent sample must be distributed as evenly as possible over the area, with different samples inspected each year in a 5-year inspection cycle;

(8) All personnel, vehicles, and equipment are treated in accordance with § 301.75–12 (c) and (d) of this subpart upon entering the grove producing the fruit;

(9) The identity of the fruit is maintained during picking, hauling to the packing house, and packing;

(10) The fruit is treated in accordance with § 301.75–12(a) of this subpart and then waxed;

(11) The fruit is free of leaves, twigs, and other plant litter, except stems less than one-inch long that are attached to the fruit;

(12) The fruit is packed in containers marked with a United States Department of Agriculture stamp that says "Certified under all applicable Federal or State Cooperative domestic plant quarantines";

(13) The fruit is to be moved under any additional emergency conditions that may be imposed by the Administrator under the Federal Plant Pest Act to prevent the spread of citrus canker; and

(14) The fruit is eligible for movement under all other federal domestic plant quarantines and regulations applicable to the fruit.

(c) *Limited permits for interstate movement of fruit.* A limited permit will be issued for the interstate movement of regulated fruit only if an inspector determines that the following conditions are met:

(1) The grove producing the fruit has not contained any infested plants or plant parts within the past year;

(2) In the grove producing the fruit, any exposed plants at high risk for developing citrus canker have been destroyed. Identification of plants at high risk for developing citrus canker will be based on an evaluation of all of the circumstances related to their exposure, including, but not limited to, the following:

(i) The stage of maturity of the exposed plants at the time of exposure;

(ii) The size and degree of infestation to which the plants were exposed;

(iii) The proximity of the exposed plants to the infested plants at the time of exposure;

(iv) The length of time the plants were exposed to the infestation; and

(v) The strain of the bacterium to which the plants were exposed;

(3) The grove producing the fruit has been found free of citrus canker on surveys, which must be conducted as follows:

(i) For groves of 10 or more regulated trees, an inspector must:

(A) Between one year and 90 days before harvest begins: examine all trees on the perimeter of the grove while driving by the trees at a speed of not more than 2 m.p.h.; examine, while on foot, at least 12 trees in high-risk areas of the grove (such as the grove entrance, the perimeter of the grove, and areas where the movement of people and equipment is concentrated); and

examine, while on foot, a minimum of four mature trees or eight young trees in one randomly selected location in every 10 acres of the grove, or, if the grove is less than 10 acres, examine, while on foot, a minimum of four mature trees or eight young trees in one randomly selected location; and

(*B*) No more than 90 days before harvest begins: examine all trees in the outer two rows of the grove while driving by the trees at a speed of not more than 2 m.p.h.; examine, while on foot, at least 12 trees in high-risk areas of the grove (such as the grove entrance, the perimeter of the grove, and areas where the movement of people and equipment is concentrated); and examine, while on foot, a minimum of four mature trees or eight young trees in each of two randomly selected locations in every 10 acres of the grove, or, if the grove is less than 10 acres, examine, while on foot, a minimum of four mature trees or eight young trees in each of two randomly selected locations;

(*C*) At least one of the two surveys must be conducted 4 to 12 weeks after a period of high temperatures and frequent rainfall likely to cause a flush of growth on the trees to be inspected;

(ii) For groves of fewer than 10 regulated trees, an inspector must walk through the grove and examine every tree no more than 30 days before the beginning of harvest;

(4) The fruit is treated in accordance with § 301.75–12(a) of this subpart;

(5) The fruit is free of leaves, twigs, and other plant litter, except stems less than one-inch long that are attached to the fruit;

(6) The fruit is to be moved under any additional emergency conditions that may be imposed by the Administrator under the Federal Plant Pest Act to prevent the spread of citrus canker; and

(7) The fruit is eligible for movement under all other federal domestic plant quarantines and regulations applicable to the fruit.

(8) Determines that fruit harvested from a grove of fewer than 10 regulated trees is to be moved interstate directly to a household, with the intent that the fruit be consumed at, or by members of, that household.

(d) *Issuance of certificates and limited permits.* * * *

(e) *Withdrawal of certificates and limited permits.* * * *

(f) *Calamondin plants.* * * *

(g) *Container-grown calamondin and kumquat nursery plants.* * * *

(h) *Fruit ineligible for interstate movement with a certificate.*

(1) Regulated fruit from any area of Florida where a primary infestation caused by Asiatic strains has occurred will not be eligible for interstate movement with a certificate until 2 years after the last infested plant in the area has been destroyed.

(2) Primary infestations caused by Asiatic strains have occurred in the area of Florida comprised of Manatee, Pinellas, and Sarasota counties and Hillsborough County south of State Road 60.

6. In § 301.75–12, new paragraphs (c) and (d) are added to read as follows:

§ 301.75–12 Treatments.

* * * * *

(c) *Personnel.* All personnel must clean their hands using one of the following disinfectants:

(1) Gallex 1027 Antimicrobial Soap;

(2) Hibiclens;

(3) Hibistat;

(4) Sani Clean Hand Soap; or

(5) Seventy Percent Isopropyl Alcohol.

(d) *Vehicles and equipment.* Vehicles and equipment must be disinfected by removing all leaves, twigs, fruit, and other plant debris from all areas of the equipment or vehicles, including in cracks, under chrome strips, and on the undercarriage of vehicles, and by wetting all surfaces (including the inside of boxes and trailers), to the point of runoff, with one of the following disinfectants:

(1) A 200-ppm chlorine solution with a pH of 6.0 to 7.5;

(2) A 0.2-percent solution of a quaternary ammonium chloride (QAC) compound;

(3) A solution of hot water and detergent, under high pressure (at least 30 pounds per square inch), at a minimum temperature of 160 ° F; or

(4) Steam, at a minimum temperature of 160 ° F. at the point of contact.

Done at Washington, D.C., this 9th day of February, 1988.

James W. Glosser,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88–2991 Filed 2–10–88; 8:45 am]

BILLING CODE 3410–34–M

Federal Crop Insurance Corporation

7 CFR Part 401

[Doc. No. 5210S]

General Crop Insurance Regulations; Corn Endorsement; Correction

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) published a final rule in the **Federal Register** on Wednesday, November 25, 1987, at 52 FR 45142, amending the General Crop Insurance Regulations (7 CFR Part 401) to add a new section § 401.111, the Corn Endorsement. In that publication, an adjustment formula was provided for mature grain damaged by insurable causes which had a test weight of below 40 pounds per bushel. This figure should have read 49 pounds per bushel in accordance with the U.S. Standards for grain. This notice is published to correct the error.

ADDRESS: Written comments on this correction may be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

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

SUPPLEMENTARY INFORMATION: FR Document 87–27047, appearing at pages 45142 through 45145, is corrected as follows:

On page 45144, in Column 2, section 7.d.(1)(b), line three, "40" is corrected to read "49".

Done in Washington, DC on January 25, 1987.

John Marshall,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 88–2898 Filed 2–10–88; 8:45 am]

BILLING CODE 3410–08–M

Soil Conservation Service

7 CFR Part 656

Procedures for the Protection of Archeological and Historical Properties Encountered in SCS-Assisted Programs

AGENCY: Soil Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: The Soil Conservation Service (SCS) removes and reserves six sections of its regulation protecting archeological and historic properties. The purpose of this action is to eliminate procedures that are inconsistent with current requirements.

EFFECTIVE DATE: February 11, 1988.

ADDRESSES: Gail Updegraff, Director, Economics and Social Sciences Division, USDA/SCS, P.O. Box 2890, Washington, DC 20013–2890.

FOR FURTHER INFORMATION CONTACT: Gail Updegraff, Director, Economics and

Social Sciences Division, or Diane Gelburd, National Cultural Resources Specialist, Economics and Social Sciences Division, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, DC 20013, (202) 447–2307; or Ronald Anzalone, Advisory Council on Historic Preservation, The Old Post Office Building, 1100 Pennsylvania Avenue NW., Room 809, Washington, DC 20004, (202) 786–0505.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA criteria established to carry out Executive Order 12291, Improving Government Regulations, and has been classified "not significant." On July 18, 1977, SCS published in the **Federal Register** (42 FR 36804) its final rule "Procedures for the Protection of Archeological and Historical Properties Encountered in SCS-Assisted Program" (7 CFR Part 656). Amendments to this rule were published in the **Federal Register** on June 19, 1978, and on June 23, 1979 (43 FR 26277 and 44 FR 27158). Proposed revisions of this rule were published in the **Federal Register** on January 29, 1981 (46 FR 9611), on August 20, 1982 (47 FR 3692), on December 9, 1983 (48 FR 55123), and on August 15, 1986 (51 FR 29251). A withdrawal of the August 15, 1986 proposed rule was published in the **Federal Register** on December 22, 1986 (51 FR 45775) because the proposed rule was inadvertently processed and signed without the benefit of Office Management and Budget review required by Executive Order 12291. The proposed rule was published in the **Federal Register** on June 2, 1987 (52 FR 20606). No comments were received on the proposed rule.

This action is being taken to ensure compliance with a programmatic memorandum of agreement and the new final rule, Protection of Historic Properties (36 CFR Part 800), published in the **Federal Register** on September 2, 1986 (51 FR 31115). The rule sets forth the process of Advisory Council on Historic Preservation review and comment for implementing section 106 of the National Historic Preservation Act, as amended (16 U.S.C. 470f).

The determination has been made pursuant to the provisions of Executive Order 12291 that the preparation of a regulatory impact analysis is not required. The rule is not considered major under Executive Order 12291. The regulation concerns agency policy and guidelines.

It has also been determined, pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534), that the rule does not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 656

Historic preservation, Soil conservation.

Accordingly, the Soil Conservation Service proposes to amend Part 656 as follows:

PART 656—[AMENDED]

Item 1. The authority citation for Part 656 is revised to read as follows:

Authority: Pub. L. 86–523, 74 Stat. 220, as amended (16 U.S.C. 469 *et seq.*); Pub. L. 89–665, 80 Stat. 915, as amended (16 U.S.C. 470 *et seq.*); 7 CFR 2.62.

§§ 656.4, 656.5, 656.6, 656.7, 656.8 and 656.9 [Removed and Reserved]

Item 2. Sections 656.4, 656.5, 656.6, 656.7, 656.8, and 656.9 are removed and reserved.

Wilson Scaling,

Chief.

[FR Doc. 88–2888 Filed 2–10–88; 8:45 am]

BILLING CODE 3410–16–M

Office of Energy

7 CFR Parts 2902 and 2903

Organization, Functions, and Availability of Information to the Public

AGENCY: Office of Energy, USDA.

ACTION: Final rule.

SUMMARY: This rule explains the organization and functions of the Office of Energy (OE) and the procedures for requesting records from OE under the Freedom of Information Act (FOIA). It supplements the Department's regulations at 7 CFR Part 1, Subpart A.

EFFECTIVE DATE: February 11, 1988.

FOR FURTHER INFORMATION CONTACT: Laura B. Snow, Economics Agencies FOIA Officer, Economics Management Staff, USDA, Room 4310, South Building, 12th and Independence Avenue SW., Washington, DC 20250. Telephone (202) 447–7590.

SUPPLEMENTARY INFORMATION: This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required and this rule may be made effective in less than 30 days after publication in the **Federal Register.** Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Also, this rule will not cause a significant economic impact or other substantial effect on small entities. Therefore, the requirements of the Regulatory Flexibility Act, 5 U.S.C. 605(b), do not apply.

List of Subjects

7 CFR Part 2902

Organization and functions (Government agencies).

7 CFR Part 2903

Freedom of information.

Accordingly, 7 CFR Chapter XXIX is amended by adding new Parts 2902 and 2903, reading as follows:

PART 2902—ORGANIZATION AND FUNCTIONS

Sec.

Authority: 5 U.S.C. 301 and 552, and 7 CFR 2.88

§ 2902.1 General.

The Office of Energy (OE) was established on December 22, 1981, (46 FR 62046) as authorized by Secretary's Memorandum 1020–4 of December 24, 1981, entitled "Establishment of the Office of Energy." The primary responsibility of OE is to develop Departmental energy policy and coordinate energy programs and strategies for the allocation of scarce fuel resources.

§ 2902.2 Organization.

The central and only office of OE is located in Washington, DC, and consists of the Director and supporting staff.

§ 2902.3 Functions.

OE has five major areas of responsibility:

(a) Provide Department leadership in:

(1) Analyzing and evaluating existing and proposed energy policies and strategies, including those regarding the allocation of scarce resources;

(2) Developing energy policies and strategies, including those regarding the allocation of scarce resources;

(3) Reviewing and evaluating Departmental energy and energy-related programs and program progress;

(4) Developing agricultural and rural components of national energy policy plans;

(5) Preparing reports on energy and energy-related policies and programs required under Acts of Congress and Executive Orders, including those involving testimony and reports on legislative proposals.

(b) Provide Departmental oversight and coordination with respect to

resources available for energy and energy-related activities, including funds transferred to USDA from the departments and agencies of the Federal Government pursuant to interagency agreements.

(c) Represent the Assistant Secretary for Economics at conferences, meetings, and other contacts where energy matters are discussed, including liaison with the Department of Energy and other governmental departments and agencies.

(d) Provide the Assistant Secretary for Economics with such assistance as he may request to perform the duties delegated to him concerning energy.

(e) Work with the Assistant Secretary for Governmental and Public Affairs to maintain Congressional and public contacts in energy matters, including development of legislative proposals, preparation of reports on legislation pending in Congress, appearances before Congressional committees, and related activities.

§ 2902.4 Authority to act for the Director.

When the Director is absent or temporarily unavailable, the Policy Analyst is authorized to act for the Director.

PART 2903—AVAILABILITY OF INFORMATION TO THE PUBLIC

Sec.

Authority: 5 U.S.C. 301 and 552; 7 CFR 1.1–1.23 and Appendix A.

§ 2903.1 General.

This part is issued in accordance with the regulations of the Secretary of Agriculture in §§ 1.1–1.23 of this title and Appendix A thereto, implementing the Freedom of Information Act (FOIA) (5 U.S.C. 552), and governs the availability of records of the Office of Energy (OE) to the public.

§ 2903.2 Public inspection, copying, and indexing.

5 U.S.C. 552(a)(2) requires that certain materials be made available for public inspection and copying and that a current index of these materials be published quarterly or otherwise be made available. OE does not maintain any materials within the scope of these requirements.

§ 2903.3 Requests for records.

Requests for records of OE shall be made in accordance with § 1.6 (a) and (b) of this title and addressed to: Economics Agencies FOIA Officer, Economics Management Staff, USDA, Room 4310, South Building, 12th and Independence Avenue, SW., Washington, DC 20250. This official is delegated authority to make determinations regarding such requests in accordance with § 1.3(a)(3) of this title.

§ 2903.4 Denials.

If the Economics Agencies FOIA Officer determines that a requested record is exempt from mandatory disclosure and that discretionary release would be improper, the Economics Agencies FOIA Officer shall give written notice of denial in accordance with § 1.8(a) of this title.

§ 2903.5 Appeals.

Any person whose request is denied shall have the right to appeal such denial. Appeals shall be made in accordance with § 1.6(e) of this title and addressed to the Director: Office of Energy, U.S. Department of Agriculture, Washington, DC 20250.

§ 2903.6 Requests for published data and information.

Information on published data and all OE programs is available from the Director, Office of Energy, U.S. Department of Agriculture, Washington, DC 20250.

Done at Washington, DC, this 8th day of February 1988.

Earle E. Gavett,

Director, Office of Energy.

[FR Doc. 88–2910 Filed 2–10–88; 8:45 am]

BILLING CODE 3410–26–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 125

Procurement Automated Source System

AGENCY: Small Business Administration.

ACTION: Emergency final rule.

SUMMARY: The Small Business Administration (SBA) is hereby amending its regulations relating to the schedule of fees for services provided in conjunction with the Procurement Automated Source System (PASS). SBA is publishing this rule in final form in response to an immediate statutory mandate.

EFFECTIVE DATE: February 11, 1988.

FOR FURTHER INFORMATION CONTACT: Jonathan H. Mertz, Special Assistant to the Associate Administrator for Procurement Assistance, 1441 L Street NW. Room 600, Washington, DC 20416 (202) 653–6635.

SUPPLEMENTARY INFORMATION: Section 610(a) of SBA's Fiscal Year 1988 Appropriations Act, Pub. L. 100–202, prohibits SBA, unless specifically authorized by subsequently enacted legislation, from raising any user fees or imposing any new user fees that were not in effect as of September 1, 1987.

Therefore, SBA is amending its schedule of fees for PASS to return it to that in effect on September 1, 1987. Specifically, this rule reduces the $50 per hour fee to $24 per hour and deletes the requirement of a minimum monthly charge for any PASS identification number holder.

Compliance with the Administrative Procedure Act (5 U.S.C. 552, Et Seq.), Executive Order 12291, the Regulatory Flexibility Act (5 U.S.C. 601, Et Seq.), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

Administrative Procedure Act

As authorized by 5 U.S.C. 553(b)(3)(B), SBA is publishing this rule in final form in order to comply promptly with section 610(a) of Pub. L. 100–202, SBA has determined that providing for public notice and comment is impracticable and would result in delay which, in this instance, is contrary to the intent of the statutory requirement.

Executive Order 12291

For purposes of E.O. 12291, SBA has determined that this final rule is not a major rule because it will not have an annual effect on the economy of $100 million or more; or cause a major increase in costs for consumers, individuals, industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based businesses to compete with foreign-based businesses in domestic or export markets.

Regulatory Flexibility Act

For purposes of the Regulatory Flexibility Act, SBA certifies that this rule will not have a significant economic impact on a substantial number of small entities. The vast majority of entities potentially affected by this rule would not be considered small for purposes of the Regulatory Flexibility Act.

Paperwork Reduction Act

This rule will not impose any reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act.

List of Subjects in 13 CFR Part 125

Government procurement, Small Business, Technical assistance.

For the reasons set forth above, Title 13, Part 125 of the Code of Federal Regulations, is amended as follows:

PART 125—[AMENDED]

1. The authority citation for Part 125 is revised to read as follows:

Authority: Sec. 610(a) of Pub. L. 100-202, (101 Stat. ____), secs. 5(b)(6), 8 and 15 of the Small Business Act, 72 Stat. 384, as amended (15 U.S.C. 631, *et seq.*), 31 U.S.C. 9701, 9702 (96 Stat. 1051).

§ 125.10 [Amended]

2. Section 125.10(b) is amended by substituting "$24" for "$50" the first time it appears in the second sentence and by removing the remainder of that sentence after the words "PASS usage."

Dated: January 26, 1988.

James Abdnor,

Administrator.

[FR Doc. 88-2978 Filed 2-10-88; 8:45 am]

BILLING CODE 8025-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-3221]

Wyoming State Board of Chiropractic Examiners; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, the Landers, Wyoming board, which has exclusive authority to license chiropractors in the state, to refrain from prohibiting, restricting, impeding or discouraging any person from advertising truthful, nondeceptive information made available by any licensed chiropractor. Respondent is prohibited from characterizing such advertising as unethical or unprofessional.

DATE: Complaint and Order issued January 13, 1988.[1]

FOR FURTHER INFORMATION CONTACT: R. Norman Cramer, Jr., Denver Regional Office, Federal Trade Commission, Suite 2900, 1405 Curtis Street, Denver, CO 80202. (303) 844-2271.

SUPPLEMENTARY INFORMATION: On Wednesday, October 14, 1987, there was published in the **Federal Register**, 52 FR 38108, a proposed consent agreement with analysis In the Matter of Wyoming State Board of Chiropractic Examiners, for the purpose of soliciting public consent. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing And Intimidating: Section 13.345 Competitors; § 13.367 Members. Subpart—Combining Or Conspiring: § 13.395 To control marketing practices and conditions. Subpart—Corrective Actions And/Or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-45(e) Correspondence; § 13.533-45(k) Records, in general; § 13.533-50 Maintain means of communication; § 13.533-60 Release of general, specific, or contractual constrictions, requirements, or restraints.

List of Subjects in 16 CFR Part 13

Chiropractors, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 88-2873 Filed 2-10-88; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Bacitracin Methylene Disalicylate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of supplemental new animal drug applications (NADA's) filed by A. L. Laboratories, Inc., providing for use of Type A medicated articles containing 30 and 60 grams of bacitracin methylene disalicylate per pound. The Type A medicated articles are used for making Type C medicated feeds for chickens, turkeys, pheasants, quail, swine, and beef cattle, the same as for the firm's current approval for 10-, 25-, 40-, or 50-gram-per-pound Type A medicated articles.

EFFECTIVE DATE: February 11, 1988.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV-128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: A. L. Laboratories, Inc., a subsidiary of A/S Apothekernes Laboratorium for Specialpraeparater, One Executive Drive, P.O. Box 1399, Fort Lee, NJ 07024, has filed two supplements to NADA 46-592 for BMD (bacitracin methylene disalicylate). The supplements provide for Type A medicated articles containing 30 and 60 grams of bacitracin methylene disalicylate per pound. The Type A medicated articles are used for making Type C medicated feeds for chickens, turkeys, pheasants, quail, swine, and beef cattle for use as in 21 CFR 558.76(d). The supplemental NADA's are approved and 21 CFR 558.76(a) is amended to reflect the approvals.

Approval of these supplements is an administrative action that did not require generation of new effectiveness or safety data. Therefore, a freedom of information summary (pursuant to 21 CFR 514.11(e)(2)(ii)) is not required.

The agency has determined under 21 CFR 25.24(d)(1)(iii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment

nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

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

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

§ 558.76 [Amended]

2. Section 558.76 *Bacitracin methylene disalicylate* is amended in paragraph (a) by revising the phrase "10, 25, 40, or 50 grams" to read "10, 25, 30, 40, 50, or 60 grams".

Dated: February 4, 1988.

Richard A. Carnevale,

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

[FR Doc. 88–2931 Filed 2–10–88; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF JUSTICE

28 CFR Part 0

Civil Division Directive; Redelegation of Authority

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This rule will codify certain delegations of authority in the Code of Federal Regulations. The delegations were originally published in a notice in the **Federal Register**. 51 FR 25953 (1986). The text of the delegations is being added to the Code of Federal Regulations in order to reflect accurately the agency's internal management structure.

EFFECTIVE DATE: February 3, 1988.

FOR FURTHER INFORMATION CONTACT: Jeffrey Axelrad, Director, Torts Branch, Civil Division, (202–724–9875).

SUPPLEMENTARY INFORMATION: This order has been issued to increase efficiency within the Department and is a matter of internal Department management. It does not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). It is not a major rule within the meaning of Executive Order No 12291.

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies).

By virtue of the authority vested in me by 28 U.S.C. 509, 510, 533 and 5 U.S.C. 301, Part 0 of Title 28 of the Code of Federal Regulations is amended as follows:

PART 0—[AMENDED]

1. The authority citation for Part 0 continues to read as follows:

Authority: 5 U.S.C. 301, 2303; 8 U.S.C. 1103, 1324A, 1427(g); 15 U.S.C. 644(k); 18 U.S.C. 2254, 4001, 4041, 4042, 4044, 4082, 4201 *et seq.*, 6003(b); 21 U.S.C. 871, 881(d), 904; 22 U.S.C. 263a, 1621–1645o, 1622 note; 28 U.S.C. 509, 510, 515, 524, 542, 543, 552, 552a, 569; 31 U.S.C. 1108, 3801 *et seq.*; 50 U.S.C. 11267; EO 11300.

2. The Appendix to Subpart Y is amended by removing Civil Division Directive No. 145–81 and adding Civil Division Directive No. 163–86 to read as follows:

Redelegation of Authority, to Branch Directors, Heads of Offices and United States Attorneys in Civil Division Cases

[Civil Division Directive No. 163–86]

Section 1. Authority to compromise or close cases and to file suits and claims.

(a) Delegation to Deputy Assistant Attorneys General. The Deputy Assistant Attorneys General are authorized to act for, and to exercise the authority of, the Assistant Attorney General in charge of the Civil Division with respect to the institution of suits, the acceptance or rejection of compromise offers, and the closing of claims or cases, unless any such authority is required by law to be exercised by the Assistant Attorney General personally or has been specifically delegated to another Department official.

(b) Delegation to United States Attorneys, Branch, Office and Staff Directors and Attorneys-in-Charge of Field Offices.

(1) Subject to the limitations imposed by paragraph (c) of this section and the authority of the Solicitor General set forth in 28 CFR 0.163, United States Attorneys, Branch, Office and Staff Directors, and Attorneys-in-Charge of Field Offices are hereby authorized, with respect to matters assigned to their respective components, to reject any offer in compromise and to accept offers in compromise and close claims or cases in the manner and to the same extent as Deputy Assistant Attorneys General, except that United States Attorneys, Directors, and Attorneys-in Charge may not accept any offers in compromise of, or settle administratively, any claim or case against the United States where the principal amount to be paid by the United States exceeds $200,000. Nor may these officials close (other than by compromise or by entry of judgment), any claim or case on behalf of the United States where the gross amount involved exceeds $200,000 or accept any offers in compromise of any such claim or case in which the difference between the gross amount of the original claim and the proposed settlement exceeds $200,000 or 10 percent of the original claim, whichever is greater.

(2) United States Attorneys, Directors, and Attorneys-in-Charge are authorized to file suits, counterclaims, and cross-claims, or to take any other action necessary to protect the interests of the United States in all nonmonetary cases, in all routine loan collection and foreclosure cases, and in other monetary claims or cases where the gross amount of the original claim does not exceed $200,000.

(3) United States Attorneys may redelegate in writing the above-conferred compromise and suit authority to Assistant United States Attorneys who supervise other Assistant United States Attorneys who handle civil litigation.

(c) Limitations on delegations. The authority to compromise cases, file suits, counterclaims, and cross-claims, or take any other action necessary to protect the interests of the United States, delegated by paragraphs (a) and (b) of this section, may not be exercised, and the matter shall be submitted for resolution to the Assistant Attorney General, Civil Division, when:

(1) For any reason, the proposed action, as a practical matter, will control or adversely influence the disposition of other claims totaling more than the respective amounts designated in the above paragraphs.

(2) Because a novel question of law or a question of policy is presented, or for any other reason, the proposed action should, in the opinion of the officer or employee concerned, receive the personal attention of the Assistant Attorney General, Civil Division.

(3) The agency or agencies involved are opposed to the proposed action. [The views of an agency must be solicited with respect to any significant proposed action if it is a party, if it has asked to be consulted with respect to any such proposed action, or if such proposed action is a case would adversely affect any of its policies.]

(4) The U.S. Attorney involved is opposed to the proposed action and requests that the matter be submitted to the Assistant Attorney General for decision.

(5) The case is on appeal, except as determined by the Director of the Appellate Staff.

Section 2. Action Memoranda.

(a) Whenever an official of the Civil Division or a United States Attorney accepts a compromise, closes a claim or files a suit or claim pursuant to the authority delegated by this Directive, a memorandum fully explaining the basis for the action taken shall be executed and placed in the file. In the case of matters compromised, closed, or filed by United States Attorneys, a copy of the memorandum must be sent to the appropriate Branch or Office of the Civil Division.

(b) The compromising of cases or closing of claims or the filing of suits for claims, which a United States Attorney is not authorized to approve, shall be referred to the appropriate Branch or Office within the Civil Division, for

decision by the Assistant Attorney General. The referral memorandum shall contain a detailed description of the matter, the United States Attorney's recommendation, the agency's recommendation where applicable, and a full statement of the reasons therefor.

Section 3. Return of civil judgment cases to agencies. Claims arising out of judgments in favor of the United States which cannot be permanently closed as uncollectible may be returned to the referring Federal agency for servicing and surveillance whenever all conditions set forth in USAM 4–2.230 have been met.

Section 4. Authority for direct reference and delegation of Civil Division cases to United States Attorneys.

(a) Direct reference to United States Attorneys by agencies. The following civil actions under the jurisdiction of the Assistant Attorney General, Civil Division, may be referred by the agency concerned directly to the United States Attorney for handling in trial courts subject to the limitations imposed by paragraph (c) of this section. United States Attorneys are hereby delegated the authority to take all necessary steps to protect the interests of the United States, without prior approval of the Assistant Attorney General, Civil Division, or his representatives. Agencies may, however, if special handling is desired, refer these cases to the Civil Division. Also, when constitutional questions or other significant issues arise in the course of such litigation, or when an appeal is taken by any party, the Civil Division should be consulted.

(1) Money claims by the United States [except penalties and forfeitures] where the gross amount of the original claim does not exceed $200,000.

(2) Single family dwelling house foreclosures arising out of loans made or insured by the Department of Housing and Urban Development, the Veterans Administration and the Farmers Home Administration.

(3) Suits to enjoin violations of, and to collect penalties under, the Agricultural Adjustment Act of 1938, 7 U.S.C. 1376, the Packers and Stockyards Act, 7 U.S.C. 203, 207(g), 213, 215, 216, 222, and 228a, the Perishable Agricultural Commodities Act, 1930, 7 U.S.C. 499c(a) and 499h(d), the Egg Products Inspection Act, 21 U.S.C. 1031 *et seq.*, the Potato Research and Promotion Act, 7 U.S.C. 2611 *et seq.*, the Cotton Research and Promotion Act of 1966, 7 U.S.C. 2101 *et seq.*, the Federal Meat Inspection Act, 21 U.S.C. 601 *et seq.*, and the Agricultural Marketing Agreement Act of 1937, as amended, 7 U.S.C. 601 *et seq.*

(4) Suits by social security beneficiaries under the Social Security Act, 42 U.S.C. 402 *et seq.*

(5) Social security disability suits under 42 U.S.C. 423 *et seq.*

(6) Black lung beneficiary suits under the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 921 *et seq.*

(7) Suits by Medicare beneficiaries under 42 U.S.C. 1395ff.

(8) Garnishment actions authorized by 42 U.S.C. 659 for child support or alimony payments.

(9) Judicial review of actions of the Secretary of Agriculture under the food stamp program, pursuant to the provisions of 7 U.S.C. 2022 involving retail food stores.

(10) Cases referred by the Department of Labor for the collection of penalties or for injunctive action under the Fair Labor Standards Act of 1938 and the Occupational Safety and Health Act of 1970.

(11) Cases referred by the Department of Labor solely for the collection of civil penalties under the Farm Labor Contractor Registration Act of 1963, 7 U.S.C. 2048(b).

(12) Cases referred by the Interstate Commerce Commission to enforce orders of the Interstate Commerce Commission or to enjoin or suspend such orders pursuant to 28 U.S.C. 1336.

(13) Cases referred by the United States Postal Service for injunctive relief under the nonmailable matter laws, 39 U.S.C. 3001 *et seq.*

(b) Delegation to United States Attorneys. Upon the recommendation of the appropriate Director, the Assistant Attorney General, Civil Division, may delegate to United States Attorneys the compromise or suit authority involving any claims or suits involving amounts up to $750,000 where the circumstances warrant such delegations. All delegations pursuant to this subsection shall be in writing and no United States Attorney shall have authority to compromise or close any such delegated case or claim except as is specified in the required written delegation or in section 1(c) of this directive. The limitations of section 1(c) of this directive also remain applicable in any case or claim delegated hereunder.

(c) Cases not covered. Regardless of the amount in controversy, the following matters normally will not be delegated to United States Attorneys for handling but will be retained and personally handled or supervised by the appropriate Branch or Office within the Civil Division:

(1) Civil actions in the Claims Court.

(2) Cases with the jurisdiction of the Commercial Litigation Branch involving patents, trademarks, copyrights, etc.

(3) Cases before the United States Court of International Trade.

(4) Any case involving bribery, conflict of interest, breach of fiduciary duty, breach of employment contract, or exploitation of public office or any fraud or False Claims Act case where the amount of single damages, plus forfeitures, if any, exceeds $200,000.

(5) Any case involving vessel-caused pollution in navigable waters.

(6) Cases on appeal, except as determined by the Director of the Appellate Staff.

(7) Any case involving litigation in a foreign court.

(8) Criminal proceedings arising under statutes enforced by the Food and Drug Administration, the Consumer Product Safety Commission, the Federal Trade Commission, and the National Highway Traffic Safety Administration (relating to odometer tampering), except as determined by the Director of the Office of Consumer Litigation.

(9) Nonmonetary civil cases, including injunction suits, declaratory judgment actions, and applications for inspection warrants, and cases seeking civil penalties, arising under statutes enforced by the Food and Drug Administration, the Consumer Product Safety Commission, the Federal Trade Commission, and the National Highway Traffic Safety Administration (relating to odometer tampering), except as determined by the Director of the Office of Consumer Litigation.

Section 5. Adverse decisions. All final judicial decisions adverse to the Government involving any direct reference or delegated case must be reported promptly to the Assistant Attorney General, Civil Division, attention Director, Appellate Staff. Consult Title 2 of the United States Attorney's Manual for procedures and time limitations.

Section 6. This directive supersedes Civil Division Directive No. 145–81 regarding redelegation of the Assistant Attorney General's authority in Civil Division cases to branch directors, heads of offices, and United States Attorneys.

Section 7. This directive applies to all cases pending as of the date of this directive and is effective immediately.

Dated: February 3, 1988.

Richard K. Willard,

Assistant Attorney General, Civil Division.

[FR Doc. 88–2892 Filed 2–10–88; 8:45 am]

BILLING CODE 4410–0–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 202, 203, 206, 207, 210, and 241

Oil and Gas Product Valuation Regulations

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Announcement of training sessions.

SUMMARY: The Minerals Management Service (MMS) hereby gives notice that it will conduct training seminars at the locations and on the dates identified below, on the new oil and gas product valuation regulations that were published in the **Federal Register** on January 15, 1988 (53 FR 1184 and 53 FR 1230, respectively). The seminars will also include a discussion of Pub. L. 100–234, "Notice to Lessees Numbered 5 Gas Royalty Act of 1987," which was signed by the President of the United States on January 6, 1988. All payors and operators on Federal and Indian leases were informed of these training seminars in a letter dated February 3, 1988.

DATES: See Supplementary Information.

FOR FURTHER INFORMATION CONTACT: John L. Price, Chief, Oil and Gas Valuation Branch, Royalty Valuation and Standards Division, (303) 231–3392, FTS 326–3392, or Dennis C. Whitcomb,

Chief, Rules and Procedures Branch, (303) 231–3432, FTS 326–3432.

SUPPLEMENTARY INFORMATION: The new oil and gas product valuation regulations that were published in the **Federal Register** on January 15, 1988, amended and clarified existing regulations governing the valuation of oil and gas for royalty computation purposes. The regulations govern the methods by which value is determined when computing oil or gas royalties and net profit shares under Federal (onshore or Outer Continental Shelf) and Indian (Tribal and allotted) oil and gas leases (except leases on the Osage Indian Reservation, Osage County, Oklahoma). Public Law 100–234, "Notice to Lessees Numbered 5 Gas Royalty Act of 1987" (the Act) applies to the valuation of natural gas produced from onshore Federal and Indian oil and gas leases during the period January 1, 1982, through July 31, 1986, which was, prior to the Act, required to be valued under Section I.A.2, II.A.2, and VI of "Notice to Lessees and Operators of Federal and Indian Onshore Oil and Gas Leases" (NTL–5).

The training seminars will include discussions on the following topics:

- Impact of Pub. L. 100–234 on gas valuation.
- Impact of the new regulations on oil and gas valuation.
- Impact of the new regulations on oil and gas transportation and processing allowances.
- Information collection requirements and reporting forms (MMS–4109, "Gas Processing Allowance Summary Report"; MMS–4110, "Oil Transportation Allowance Report"; and MMS–4295, "Gas Transportation Allowance Report") required to support oil and gas transportation and processing allowance deductions from royalties due. On the second day of each seminar, the forms will be reviewed in a "how to complete," step-by-step process.

Location and Dates: The seminars will be held from 9:00 a.m. to 4:30 p.m. each day on the dates and at the locations shown below:

Dates	Locations
Feb. 23–24, 1988	Holiday Inn Denver West, 14707 West Colfax, Golden, Colorado 80401, Phone: (303) 279–7611
Mar. 2–3, 1988	Holiday Inn Houston Intercontinental Airport, 3702 North Belt East, Houston, Texas 77032, (713) 449–2311
Mar. 9–10, 1988	New Orleans Ramada Inn Airport, 2610 Williams Blvd., Kenner, Louisiana 70061, Phone: (504) 466–1401
Mar. 17–18, 1988	Holiday Inn Great South West, Highway 360 at Brown Blvd., Arlington, Texas 76011, Phone: (817) 640–7712
Mar. 23–24, 1988	Sheraton Inn Tulsa Airport, 2201 N. 77 E. Avenue, Tulsa, Oklahoma 74115, Phone: (918) 835–9911
Mar. 28–29, 1988	Chevron U.S.C., Inc., 2003 Diamond Blvd., Concord, California 94520
Mar. 31–Apr. 1, 1988.	Ramada Inn, 3535 Rosedale Highway, Bakersfield, California 93308, Phone: (805) 327–0681

Reservations: Persons interested in attending one of these seminars should make a reservation by telephone on or before February 17, 1988, to Ms. Julie White, (303) 231–3155, FTS 326–3155.

Telephone reservations should be confirmed in writing to Ms. Julie White, Minerals Management Service, Royalty Valuation and Standards Division, P.O. Box 25165, MS 653, Denver, Colorado 80225.

Persons requesting reservations should specify the seminar location that they are interested in attending and the number of attendees. Due to space limitations, the number of attendees may be limited at each seminar location. (Likewise, if insufficient interest is shown in attending any of the individual training sessions, such sessions may be canceled and alternate arrangements will be made for those who expressed interest.) Reservations will be provided on a first-come-first-served basis.

Date: February 5, 1988.

Jerry D. Hill,

Associate Director for Royalty Management.

[FR Doc. 88–2867 Filed 2–10–88; 8:45 am]

BILLING CODE 4310–MR–M

30 CFR Part 206

Oil and Gas Royalty Valuation, Transportation and Processing Allowances

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notification of information collection requirements.

SUMMARY: The Minerals Management Service (MMS) published new oil and gas product valuation regulations in the **Federal Register** on January 15, 1988 (53 FR 1184 and 53 FR 1230, respectively), with an effective date of March 1, 1988, for both regulations. These regulations require information collection by MMS to monitor and review transportation and processing allowances that may be claimed as a deduction from royalty payments due on Federal and Indian lands. The information collection requirements and reporting forms (MMS–4109, "Gas Processing Allowance Summary Report," MMS–4110, "Oil Transportation Allowance Report," and MMS–4295, "Gas Transportation Allowance Report") have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Notice is hereby given that payors who claim transportation or processing allowance deductions for royalty reporting periods after March 1, 1988, are required to report certain information to MMS on the Forms MMS–4109, –4110, and –4295 as applicable. All payors of royalties were informed of this requirement in a letter dated February 4, 1988. Copies of the required reports may be obtained from the address identified in the **ADDRESS** section below.

DATE: The information collection requirements are effective for royalty reporting periods after March 1, 1988, for which transportation and/or processing allowance deductions are claimed.

ADDRESS: Copies of Forms MMS–4109, –4110, and –4295 may be obtained by written or verbal request to the following office: Minerals Management Program, Royalty Management Program, Royalty Valuation and Standards Division, Denver Federal Center, Bldg. 41, P.O. Box 25165, MS–653, Denver, Colorado 80225, Telephone 303–231–3063.

FOR FURTHER INFORMATION CONTACT: Stanley J. Brown, Chief, Transportation and Processing Valuation Branch, Royalty Valuation and Standards Division, (303) 231–3063, (FTS) 326–3063, or Dennis C. Whitcomb, Chief, Rules and Procedures Branch, (303) 231–3432, (FTS) 326–3432.

SUPPLEMENTARY INFORMATION: The information collection requirements are contained in §§ 206.105, 206.157, and 206.159 of the new product valuation regulations at 30 CFR Part 206. If a payor claims a transportation or processing allowance, as a deduction from royalties due, the applicable report is due to MMS by the end of the month in which the allowance is claimed on Form MMS–2014.

The information is being collected by the Department of the Interior to meet its congressionally mandated accounting and audit responsibilities relating to Federal and Indian mineral royalty management.

Dated: February 5, 1988.

Jerry D. Hill,

Associate Director for Royalty Management.

[FR Doc. 88-2868 Filed 2-10-88; 8:45 am]

BILLING CODE 4310-MR-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 931

Approval of Permanent Program Amendments for the State of New Mexico Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: OSMRE is announcing approval of amendments to the New Mexico Permanent Regulatory Program (hereinafter referred to as the New Mexico program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments pertain to extending the time set for abatement of a notice of violation.

EFFECTIVE DATE: February 11, 1988.

FOR FURTHER INFORMATION CONTACT: Robert H. Hagen, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 625 Silver Avenue SW., Suite 310, Albuquerque, NM 87102, Telephone: (505) 766-1486.

SUPPLEMENTARY INFORMATION:

I. Background

The New Mexico program was conditionally approved by the Secretary of the Interior, effective December 31, 1980, by notice published in the **Federal Register** (46 FR 86459). Information regarding the general background, revisions, modifications, and amendments to the New Mexico program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the New Mexico program, can also be found in the December 31, 1980 **Federal Register**.

Actions taken subsequent to the approval of the New Mexico program concerning the conditions of approval, regulations disapproved in accordance with court order, preempted laws and regulations, approved admendments, and required amendments, can be found at 30 CFR 931.11, 931.12, 931.13, 931.15, and 931.16.

II. Discussion of the Amendments

The Coal Surface Mining Commission (CSMC) Rule 80-1, section 30-12(c), requires that the total time for abatement under a notice of violation, including all extensions, shall not exceed 90 days from the date of issuance. By letter dated August 12, 1987, (Administrative Record No. NM-371) the New Mexico Mining and Minerals Division submitted a proposed amendment regarding the extension of abatement dates for notices of violation for periods exceeding 90 days when failure to meet the time previously set was not caused by lack of diligence on the part of the permittee. New Mexico proposes to accomplish this regulatory change by deleting the current language found at section 30-12(c) of its program and replacing it with language that is substantially identical to the Federal language found at 30 CFR 843.12(c) and 843.12(f) through 843.12(i). New Mexico proposes to codify this amended language as section 30-12(c) through (h), and recodify existing section 30-12(d) through (g) as 30-12(i) through (l).

On September 9, 1987, OSMRE published a notice of receipt of the amendments in the **Federal Register** and invited public comment on the adequacy of the proposed amendments (52 FR 33956). This notice stated that a public hearing would be held only if requested. Since there were no requests for a hearing, a hearing was not held. The comment period closed on October 9, 1987, and comments from one agency were received.

III. Director's Findings

The Director finds, in accordance with SMCRA, 30 CFR 732.15, and 30 CFR 732.17, that the program amendments submitted by New Mexico on August 12, 1987, meet the requirements of SMCRA and 30 CFR Chapter VII as discussed in the findings below. The Director is approving the rules with the provision that they be fully promulgated in identical form to the rules submitted to and reviewed by OSMRE and the public.

New Mexico CSMC Rule 80-1, Section 30-12

These amendments provide for the extension of abatement dates for notices of violation for periods exceeding 90 days when failure to meet the time previously set was not caused by lack of diligence on the part of the permittee.

The amendments proposed by New Mexico are substantially identical to the Federal requirements found at 30 CFR 843.12(c) and 843.12(f) through 843.12(i). Therefore, the Director finds that the amendments are in accordance with SMCRA and are not less effective than the Federal regulations.

IV. Public Comments

Mostly editorial comments were received from the Mine Safety and Health Administration (MSHA) recommending that several changes be made to the proposed amendments. However, MSHA did suggest replacing the phrase "surface coal mining operation" found at 30-12(d) with the phrase "mine operator." This cannot be accomplished as "surface coal mining operation" is defined at 30 CFR 700.5 of OSMRE's regulations and is used extensively throughout those regulations as well as the New Mexico program. Because the language proposed by New Mexico is substantially identical to the existing Federal language of 30 CFR, New Mexico's proposed amendments are being approved as submitted.

Acknowledgements of OSMRE's request for comments were received from the following Federal agencies: the Soil Conservation Service, the Mine Safety and Health Administration, the Bureau of Land Management, the National Park Service, the Fish and Wildlife Service, the Forest Service, the Bureau of Mines, the Minerals Management Service, and the Environmental Protection Agency. This disclosure of Federal agency comments is made pursuant to section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(10)(i).

V. Director's Decision

The Director, based on the above findings, is approving the amendments as submitted by New Mexico on August 12, 1987. The Director is amending Part 931 of Chapter VII to reflect approval of the State program amendments. As noted above, the rules will not take effect for purposes of the New Mexico program until the revised rules have been promulgated as final rules in New Mexico.

VI. Procedural Matters

1. Compliance With the National Environmental Policy Act

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

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

On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4,

7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

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

3. Paperwork Reduction Act

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

List of Subjects in 30 CFR Part 931

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

Date: February 5, 1988.

James W. Workman,

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

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below.

PART 931—NEW MEXICO

Part 931 of Title 30, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 931 continues to read as follows:

Authority: Sec. 503, Pub. L. 95–87, 91 Stat. 470 (30 U.S.C. 1253).

2. In Part 931 § 931.15 is amended by adding a new paragraph (f) as follows:

§ 931.15 Approval of amendments to State regulatory program.

* * * * *

(f) The following amendments submitted to OSMRE on August 12, 1987 are approved, effective upon promulgation of the revised rules by the State, provided the rules are adopted in identical form as submitted to OSMRE: New Mexico Coal Surface Mining Commission (CSMC) rules 80–1–30–12(c) through (1).

[FR Doc. 88–2928 Filed 2–10–88; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 884

Delivery of Air Force Personnel to United States Civilian Authorities for Trial

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force revised the regulation on Delivery of Air Force Personnel to United States Civil Authorities for Trial. This regulation sets forth the authority, policy, and procedures for delivery of Air Force personnel to U.S. civil authorities for trial. This revision is intended to make the regulation easier to understand. It combines policies and procedures for delivery of Air Force personnel into the same paragraph. It also incorporates the Interstate Agreement on Detainers Act which deals with transfer of prisoners to state authorities.

EFFECTIVE DATE: March 14, 1988.

FOR FURTHER INFORMATION CONTACT: Major R.D. James, HQ USAF/JAJM, Building 5683, Bolling AFB, DC 20332–6128, telephone (202) 767–1539.

SUPPLEMENTARY INFORMATION: This regulation implements a public law and higher level directives and, therefore is published as a final rule.

The Department of the Air Force has determined that this regulation is not a major rule as defined by Executive Order 12291, and does not contain reporting or recordkeeping requirements under the criteria of the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

List of Subjects in 32 CFR Part 884

Intergovernmental relations, Law enforcement, Military personnel.

Therefore, 32 CFR Part 884 is revised to read as follows:

PART 884—DELIVERY OF AIR FORCE PERSONNEL TO UNITED STATES CIVILIAN AUTHORITIES FOR TRIAL

Sec.

Authority: 10 U.S.C. 8013, 814.

§ 884.0 Purpose.

This part sets forth the authority, policy, and procedures for delivery of Air Force personnel to U.S. civil authorities for trail. It applies to all military personnel in the Air Force, including U.S. Air Force Reserve members while on active or inactive duty training and Air National Guard members while in federal status under 10 U.S.C. It does not apply to delivery of personnel to foreign authorities. It is not applicable where a state, having concurrent jurisdiction for the purpose of executing criminal process, proceeds by service of process to take custody of an Air Force member without making formal request for the member's delivery. This part is not intended to confer any rights, benefits privileges or form of due process procedure upon any individuals.

§ 884.1 Authority for delivery of Air Force personnel.

In accordance with Article 14, Uniform Code of Military Justice, a commander exercising general court-martial jurisdiction, or a wing or base commander when authorized by the officer exercising general court-martial jurisdiction, may authorize delivery of a member of the Air Force under the commander's command, when such member is accused of a crime or offense made punishable by the laws of the jurisdiction making the request, to the civil authorities of the United States or of a state of the United States under the conditions prescribed in this part.

§ 884.2 Policies and procedures for delivery.

(a) Requests by Federal authorities for personnel stationed within the United States, and its possessions:

(1) *Policy on delivery.* It is Air Force policy normally to deliver members of the Air Force to such authorities upon their request when the request is accompanied by a warrant for the member's arrest issued pursuant to the Federal Rules of Criminal Procedure, Rule 4, or when the requesting officer represents that such a warrant has been issued. See DOD Directive 5525.7, Implementation of the Memorandum of Understanding Between the Department of Justice and the Department of Defense Relating to the Investigation and Prosecution of Certain Crimes, January 22, 1985 (which is reprinted as Appendix 3 of the Manual for Courts-Martial, United States, 1984) and see § 884.5 of this part.

(2) *Delivery to Federal authorities.* Persons desired by the Federal

authorities for trial will be called for and taken into custody by a U.S. marshal, deputy marshal, or other officer authorized by law. The officer taking custody must execute a statement in substantially the following form: "A warrant for the arrest of (Name, Grade, and Social Security Number), hereinafter referred to as the 'member,' who is charged with _____ has been issued by _____ and in execution thereof, I accept his or her custody. The commander, (Unit), will be advised of the disposition of the charges. The member will be immediately returned to the custody of the Air Force at (Air Force activity or recruting office nearest place of trial) upon completion of the trial if acquitted, upon satisfying the sentence imposed if convicted, or upon other disposition of the case. The member's return will not be required if the member's commander has indicated that return is not appropriate. Pending disposition of the charges, the member will remain in the custody of (Name of Agency, etc., and Location), unless released on bail or the member's own recognizance, in which event (Air Force Unit, Activity or Recruiting Office nearest place of trial) will be notified."

(b) Requests by authorities of the state in which the member requested is located:

(1) Offenses punishable by imprisonment for more than 1 year. It is Air Force policy normally to turn over to the civilian authorities of the state, upon their request, members of the Air Force charged with an offense against civil authority punishable by imprisonment for more than 1 year, when such request is accompanied by a copy of the indictment, information, or other document used in that jurisdiction to prefer charges. See, however, § 884.5 of this part.

(2) Offenses punishable by imprisonment for 1 year or less. Upon request of civil authorities for the delivery of a member charged with an offense against civil authorities punishable by imprisonment for 1 year or less, the commander authorized to deliver will exercise his or her discretion after consideration of the nature of the offense charged, other facts and circumstances, and the existing military situation. The request for delivery will be accompanied by a copy of the information or other document used to prefer charges.

(3) Delivery to state authorities. Before making delivery to civil authorities of a state, the commander having authority to deliver will obtain from the Governor or other duly authorized officer of such state, a written agreement substantially in the following form:

In consideration of the delivery at (Location) of (Name, Grade, and Social Security Number), hereinafter referred to as the "member," United States Air Force, to me (Name and Capacity), for trial upon the charge of _____, I, pursuant to the authority vested in me as _____, hereby agree to the following: The Commander, (Unit) will be advised of the disposition of the charges. The member will be immediately returned to the custody of the Air Force upon completion of the trial if acquitted, upon satisfying the sentence imposed if convicted, or upon other disposition of the case. The member's return will be to the aforesaid place of delivery, or to such other place as may be designated by the Department of the Air Force. The member's return will not be required if the member's commander has indicated that return is not appropriate. Instead of actual delivery, transportation for the member may be arranged so long as it is without expense to the United States or to the member. Pending disposition of the charges, the member will remain in the custody of (Name of Agency, etc., and Location), unless released on bail or the member's own recognizance, in which event (Air Force Unit, Activity, or Recruiting Office nearest place of trial) will be notified.

Where, under the laws of the state concerned, no authority exists permitting agreement to one or more of the conditions set out in the form, appropriate modification may be authorized by the commander. The Air Force considers this agreement substantially complied with when the Air Force authority who delivered the accused is informed of his or her prospective release for return to Air Force authorities, and when the individual is furnished transportation back to his or her station together with necessary funds to cover incidental expenses enroute thereto. Copies of the statement or agreement referenced in § 884.2 (a)(2) and (b)(3) of this part will be furnished to the civil authority to whom the Air Force member was delivered and to the Air Force unit, activity, or recruiting office nearest to the place of trial designated in the agreement as the point of contact in the event of release on bail or on recognizance (see § 884.4 of this part). The commander authorized to deliver, or his or her designee, will notify the civil authority to whom the Air Force member was delivered as soon as practicable in the event the return of the member to Air Force custody is no longer appropriate (e.g. discharge from the Air Force).

(c) Request for delivery by authorities of any other state. With respect to extradition process, military personnel have the same status as presons not in the armed forces. Accordingly, if the delivery of an Air Force member is requested by a state other than the state in which the member is located, the requesting state will be required, in the absence of a waiver of extradition process by the member concerned, to use its extradition procedures and to make arrangements to take the individual into custody in the state where he or she is located. It is contrary to Air Force policy to transfer an Air Force member from a station within one state to a station within another state for the purpose of making him or her amenable to prosecution by civil authorities.

(d) Requests for custody of members stationed outside the United States. All such requests must be forwarded to HQ USAF/JAJM for action.

(e) Requests under the Interstate Agreement on Detainers Act. The Interstate Agreement on Detainers Act (Act), 18 U.S.C. App. is a compact entered into by 48 of the 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, and the United States. The Act applies to the military and is implemented by this paragraph. The purpose of the Act is to encourage the expeditious and orderly disposition of charges outstanding against a prisoner and determination of the proper status of any and all detainers based on untried indictments,informations, or complaints. The Act provides a way for the prisoner to be tried on charges pending before state courts, either at the prisoner's request or at the request of the state where the charges are pending. When a request under the Act is received from either the prisoner or state authorities, the procedures set out 18 U.S.C. App. should be followed. The Act applies only to "a person who has entered upon a term of imprisonment in a penal or correctional institution" and is therefore inapplicable to members in pretrial confinement.

§ 884.3 Procedure upon refusal or request.

In any case where a request is made for delivery of Air Force members to the civil authorities of a state or to the federal authorities, and such request is refused, the circumstances of the case and the basis for the refusal must be reported without delay to HQ USAF/JAJM (through the officer exercising general court-martial jurisdiction, if authority to deliver the member has been delegated to a wing or base commander according to § 884.1).

§ 884.4 Release on bail or recognizance.

The civil authority to whom an Air Force member is delivered under this part may release the member on bail or

on the member's own recognizance before final disposition of the charges. The commander authorized to deliver the member, or his or her designee, must; before delivery, direct the member in writing to report to a designated Air Force unit, activity, or recruiting office for further instructions, in the event of such release. If the civil authorities to whom delivery was authorized are in the immediate vicinity of the member's station, the activity designated ordinarily will be the member's unit. The Air Force unit, activity, or recruiting office designated will be advised of this action. The authority to whom the member reports must communicate, by the fastest practicable means, the member's name, rank, SSN, organization, and other pertinent information to and request disposition instructions from, the commander who authorized the delivery of the member to civil authorities. If contact with such commander is not feasible, instructions must be obtained from HQ AFMPC/DPMARS or DPMRPP2.

§ 884.5 Cases involving special circumstances.

The policies stated in § 884.2 are intended to provide guidance only and are not to be considered as providing a solution for every case. In cases involving special circumstances, the commander authorized to deliver may transmit the request to HQ USAF/JAJM for determination of appropriate action.

§ 884.6 Action by commander not authorized to deliver.

Commanders other than those specified in § 884.1 must refer requests for delivery to the appropriate commander authorized to deliver.

§ 884.7 Placing member under restraint pending delivery.

A member may be placed under restraint (see MCM 1984 (R.C.M. 304), as to types of restraint available) by military authorities pending delivery to state or federal authorities. Such restraint may be imposed upon receipt of information establishing probable cause that the member committed an offense, and upon reasonable belief such restraint is necessary. Such restraint may continue only for such time as is reasonably necessary to effect the delivery. As to the type of analysis to be undertaken in determining whether probable cause exists and whether a reasonable belief exists that restraint is necessary, see MCM 1984 (R.C.M. 305(h)(2)(b) and its following discussion). There is no requirement for the formal review of restraint provided in AFR 111–1, Military Justice Guide, or MCM 1984 (R.C.M. 305).

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 88–2958 Filed 2–10–88; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 100 and 165

[CGD 88–007]

Safety and Security Zones

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary rules issued.

SUMMARY: This document gives notice of temporary safety zones, security zones, and local regulations. Periodically the Coast Guard must issue safety zones, security zones, and special local regulations for limited periods of time in limited areas. Safety zones are established around areas where there has been a marine casualty or when a vessel carrying a particularly hazardous cargo is transiting a restricted or congested area. Special local regulations are issued to assure the safety of participants and spectators of regattas and other marine events.

DATES: The following list includes safety zones, security zones, and special local regulations that were established between October 1, 1987 and December 31, 1987 and have since been terminated. Also included are several zones established earlier but inadvertently omitted from the last published list.

ADDRESS: The complete text of any temporary regulations may be examined at, and is available on request from, Executive Secretary, Marine Safety Council (G–CMC), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Novak, Deputy Executive Secretary, Marine Safety Council at (202) 267–1477.

SUPPLEMENTARY INFORMATION: The local Captain of the Port must be immediately responsible to the safety needs of the waters within his jurisdiction; therefore, he has been delegated the authority to issue these regulations. Since events and emergencies usually take place without advance notice or warning, timely publication of notice in the **Federal Register** is often precluded. However, the affected public is informed through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is frequently provided by Coast Guard patrol vessels enforcing the restrictions imposed in the zone to keep the public informed of the regulatory activity. Because mariners are notified by Coast Guard officials on scene prior to enforcement action **Federal Register** notice is not required to place the special local regulations, security zone, or safety zone in effect. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To discharge this legal obligation without imposing undue expense on the public, the Coast Guard publishes a periodic list of these temporary special local regulations, security zones, and safety zones. Permanent safety zones are not included in this list. Permanent zones are published in their entirety in the **Federal Register** just as any other rulemaking. Temporary zones are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated.

Non-major safety zones, special local regulations, and security zones have been exempted from review under E.O. 12291 because of their emergency nature and temporary effectiveness.

The following regulations were placed in effect temporarily during the period October 1, 1987 through December 31, 1987 unless otherwise indicated:

Docket Number	Location	Type	Date
1–87–68	Hempstead Harbor, NY	Safety Zone	Oct. 3, 1987.
1–87–71	Gowanus Bay, NY, NY	do	Oct. 14, 1987.
1–87–72	Newtown Creek, Long Island City, NY	do	Oct. 15, 1987.
1–87–75	do	do	Oct. 21, 1987.
1–87–76	Lower East River, NY	do	Nov. 1, 1987.
1–87–78	Newtown Creek, Long Island City, NY	do	Oct. 26, 1987.
1–87–79	Lower Hudson River, NY	do	Oct. 28, 1987.
1–87–80	Newtown Creek, Long Island City, NY	do	Oct. 30, 1987
1–87–81	do	do	Nov. 3, 1987

Docket Number	Location	Type	Date
1-87-82	....do	....do	Nov. 4, 1987.
1-87-83	....do	....do	Nov. 6, 1987.
1-87-89	....do	....do	Nov. 9, 1987.
1-87-90	....do	....do	Nov. 10, 1987.
1-87-91	....do	....do	Nov. 12, 1987.
1-87-92	....do	....do	Nov. 13, 1987.
1-87-93	....do	....do	Nov. 16, 1987.
1-87-97	East River, NY	....do	Dec. 8, 1987.
1-87-98	Newtown Creek, Long Island City, NY	....do	Dec. 2, 1987.
1-87-100	East River, NY	....do	Dec. 9, 1987.
1-87-105	....do	....do	Dec. 17, 1987.
1-87-105	....do	....do	Dec. 18, 1987.
COTP Boston, MA, Reg. 87-69	Plymouth Harbor, MA	Security Zone	Oct. 4, 1987.
COTP Boston, MA, Reg. 87-70	Boston Inner Harbor, MA	Safety Zone	Oct. 10, 1987.
COTP Providence, RI, Reg. 87-073	Rhode Island Sound, Narragansett Bay, West Passage, Quonset Point, General Dynamics, Electric Boat Division.	Security Zone	Oct. 24, 1987.
COTP Providence, RI, Reg. 87-095	Rhode Island Sound, Narragansett Bay	Safety Zone	Nov. 28, 1987.
COTP Providence, RI, Reg. 87-102	....do	....do	Dec. 22, 1987.
COTP Pittsburgh, PA, Reg. 87-05	Ohio River, Mile 0.0	....do	Jul. 4, 1987.
COTP Pittsburgh, PA, Reg. 87-06	Monongahela River, Mile 11.2	....do	Jul. 12, 1987.
COTP Pittsburgh, PA, Reg. 87-07	Monongahela River, Mile 15.0	....do	Aug. 23, 1987.
COTP Pittsburgh, PA, Reg. 87-08	Monongahela River, Mile 0.0	....do	Dec. 10, 1987.
COTP Louisville, KY, Reg. 87-08	Ohio River, Mile 603.5	....do	Jul. 25, 1987.
COTP Louisville, KY, Reg. 87-11	Ohio River, Mile 607.0	....do	Oct. 8, 1987.
COTP Louisville, KY, Reg. 87-12	Ohio River, Mile 607.0	....do	Oct. 11, 1987.
COTP Louisville, KY, Reg. 87-13	Ohio River, Mile 598.5	....do	Dec. 8, 1987.
COTP St. Louis, MO, Reg. 87-06	Mississippi River, Mile 471.0	....do	Jul. 20, 1987.
COTP St. Louis, Mo, Reg. 87-08	Mississippi River, Mile 760.2	....do	Oct. 14, 1987.
COTP St. Louis, MO, Reg. 87-07	Missouri River, Mile 397.6	Security Zone	Aug. 23, 1987.
COTP Huntington, WV, Reg. 87-07	Ohio River, Mile 322	Safety Zone	Jul. 3, 1987.
COTP Huntington, WV, Reg. 87-08	Ohio River, Mile 171.5	....do	Jul. 12, 1987.
COTP Huntington, WV, Reg. 87-09	Kanawha River, Mile 58.0	....do	Jul. 4, 1987.
COTP Huntington, WV, Reg. 87-10	Ohio River, Mile 184.0	....do	Aug. 15, 1987.
COTP Huntington, WV, Reg. 87-11	Elk River, Mile 0.0	....do	Aug. 11, 1987.
COTP Huntington, WV, Reg. 87-12	Kanawha River, Mile 56.0	....do	Aug. 25, 1987.
COTP Huntington, WV, Reg. 87-13	Kanawha River, Mile 54.0	....do	Sep. 21, 1987.
COTP Huntington, WV, Reg. 87-14	Kanawha River, Mile 56.0	....do	Dec. 12, 1987.
COTP Memphis, TN, Reg. 87-08	Carruthersville Harbor, Mississippi River, Mile 842.0	....do	Jul. 1, 1987.
COTP Memphis, TN, Reg. 87-09	Mississippi River, Mile 734.7	....do	Aug. 18, 1987.
COTP Memphis, TN, Reg. 87-10	White River, Mile 0.0	....do	Aug. 19, 1987.
COTP Memphis, TN, Reg. 87-11	Mississippi River, Mile 815	....do	Aug. 23, 1987.
COTP Memphis, TN, Reg. 87-12	Mississippi River, Mile 802	....do	Sept. 1, 1987.
COTP Memphis, TN, Reg. 87-13	Mississippi River, Mile 611	....do	Sept. 6, 1987.
COTP Memphis, TN, Reg. 87-14	Mississippi River, Mile 679	....do	Sept. 7, 1987.
COTP Memphis, TN, Reg. 87-15	Mississippi River, Mile 611	....do	Sept. 17, 1987.
COTP Memphis, TN, Reg. 87-16	Memphis Harbor, McKellar Lake, Mile 0.0	....do	Sept. 28, 1987.
COTP Memphis, TN, Reg. 87-17	White River, Mile 0	....do	Oct. 16, 1987.
COTP Memphis, TN, Reg. 87-18	White River, Mile 0	....do	Oct. 15, 1987.
COTP Memphis, TN, Reg. 87-20	Mississippi River, Mile 692	....do	Oct. 29, 1987.
COTP Memphis, TN, Reg. 87-21	White River, Mile 0	....do	Nov. 9, 1987.
COTP Memphis, TN, Reg. 87-22	Mississippi River, Mile 607	....do	Nov. 9, 1987.
COTP Memphis, TN, Reg. 87-24	Mississippi River, Mile 736	....do	Nov. 11, 1987.
COTP Memphis, TN, Reg. 87-25	White River, Mile 0	....do	Dec. 3, 1987.
COTP Memphis, TN, Reg. 87-26	Arkansas River, Mile 394.0	....do	Dec. 12, 1987.
COTP Memphis, TN, Reg. 87-23	Arkansas River, Mile 77.5	Security Zone	Nov. 21, 1987.
2-87-07	Ohio River, Mile 449.0	Special Local Regulation	Sept. 13, 1987.
COTP Paducah, KY, Reg. 87-01	Cumberland River, Mile 190.7	....do	Jul. 4, 1987.
COTP Paducah, KY, Reg. 87-03	Cumberland River, Mile 190.7	....do	Oct. 10, 1987.
5-87-085	Pro/Am Regatta, Norfolk, VA	....do	Oct. 22, 1987.
5-87-086	Elizabeth River, Norfolk, VA	....do	Nov. 28, 1987.
5-87-093	....do	....do	Dec. 31, 1987.
COTP Hampton Roads, VA, Reg. 87-27	South Branch, Elizabeth River	Safety Zone	Oct. 19, 1987.
COTP Hampton Roads, VA, Reg. 87-28	....do	....do	Oct. 20, 1987.
COTP Hampton Roads, VA, Reg. 87-29	....do	....do	Nov. 6, 1987.
COTP Hampton Roads, VA, Reg. 87-30	....do	....do	Nov. 7, 1987.
COTP Hampton Roads, VA, Reg. 87-31	....do	....do	Nov. 18, 1987.
COTP Hampton Roads, VA, Reg. 87-32	....do	....do	Nov. 20, 1987.
COTP Baltimore, MD, Reg. 87-05	Patapsco River, Upper Chesapeake Bay	....do	Nov. 24, 1987.
COTP Philadelphia, PA, Reg. 87-005	Marcus Hook Range, Delaware River	....do	Dec. 7, 1987.
7-62-87	NE. of Wisteria Island	Special Local Regulation	Dec. 1, 1987.
7-63-87	Key West Main Ship Channel	....do	Dec. 3, 1987.
7-072-87	Atlantic Intracostal Waterway, Marker 46	....do	Dec. 18, 1987.
7-074-87	Key Biscayne Yacht Club Channel Light 3	....do	Dec. 18, 1987.
7-87-048	South Biscayne Bay	....do	Oct. 10, 1987.
7-87-054	Atlantic Intracoastal Waterway, C-15 Canal	....do	Dec. 19, 1987.
7-87-055	North Fork, Saint Lucie River	....do	Dec. 19, 1987.
7-87-56	Atlantic Intracoastal Waterway, Palm Beach Turning Basin.	....do	Dec. 17, 1987.
COTP Miami, Fla, Reg. 87-51	Miami Harbor, FL	Security Zone	Oct. 3, 1987.
7-87-057	Indian Creek	Special Local Regulation	Dec. 19, 1987.
7-87-068	Atlantic Intracoastal Waterway, Deerfield Beach, FL	....do	Dec. 13, 1987.

Docket Number	Location	Type	Date
COTP Charleston, SC, Reg. 87-165.T 50-87	Charleston Harbor, SC	Safety Zone	Oct. 16, 1987.
COTP New Orleans, LA, Reg. 87-02	Mississippi River, Mile 105.6	do	Aug. 5, 1987.
COTP New Orleans, LA, Reg. 87-03	Lake Pontchartrain, U of New Orleans	Security Zone	Sept. 12, 1987.
COTP New Orleans, LA, Reg. 87-04	Algiers Alternate Route, Mile 0	Safety Zone	Oct. 8, 1987.
COTP New Orleans, LA Reg. 87-13	Bolivar Roads & Houston Ship Channel	do	Sept. 17, 1987.
COTP Corpus Christi, TX, Reg. 87-08	Matagorda Ship Channel	do	Oct. 25, 1987.
COTP Corpus Christi, TX, Reg. 87-09	Brownsville Ship Channel	do	Oct. 27, 1987.
COTP Corpus Christi, TX, Reg. 87-10	do	do	Oct. 10, 1987.
COTP Houston, TX, Reg. 87-005	Houston Ship Channel	do	Aug. 26, 1987.
COTP Houston, TX, Reg. 87-006	do	do	Sept. 17, 1987.
COTP Houston, TX, Reg. 87-007	do	do	Oct. 2, 1987.
COTP Mobile, AL, Reg. 87-09	Black Warrior River, Mile 337.5	do	Oct. 10, 1987.
COTP Mobile, AL, Reg. 87-10	G.I.C.W., Mile 171.9	do	Oct. 26, 1987.
COTP Mobile, AL, Reg. 87-12	Spanish River, Mobile, AL	do	Nov. 11, 1987.
COTP Mobile, AL, Reg. 87-11	Mobile Harbor, Mobile, AL	Security Zone	Oct. 27, 1987.
COTP Mobile, AL, Reg. 87-13	do	do	Nov. 20, 1987.
COTP San Diego, CA, Reg. 87-18	San Diego Channel	Safety Zone	Sept. 29, 1987.
COTP San Diego, CA, Reg. 87-19	do	do	Oct. 2, 1987.
COTP San Diego, CA, Reg. 87-20	do	do	Oct. 13, 1987.
COTP San Diego, CA, Reg. 87-21	do	do	Oct. 17, 1987.
COTP San Diego, CA, Reg. 87-22	do	do	Oct. 27, 1987.
COTP San Diego, CA, Reg. 87-23	do	do	Oct. 29, 1987.
COTP San Diego, CA, Reg. 87-24	do	do	Nov. 6, 1987.
COTP San Diego, CA, Reg. 87-25	do	do	Nov. 9, 1987.
COTP San Diego, CA, Reg. 87-26	do	do	Nov. 13, 1987.
COTP San Diego, CA, Reg. 87-27	do	do	Nov. 16, 1987.
COTP San Diego, CA, Reg. 87-28	do	do	Nov. 28, 1987.
COTP San Diego, CA, Reg. 87-29	do	do	Dec. 9, 1987.
COTP San Diego, CA, Reg. 87-30	do	do	Dec. 14, 1987.
COTP San Diego, CA, Reg. 87-31	do	do	Dec. 15, 1987.
COTP San Diego, CA, Reg. 87-32	do	do	Dec. 18, 1987.
COTP San Diego, CA, Reg. 87-33	do	do	Dec. 28, 1987.
COTP San Francisco, CA, Reg. 87-14	San Francisco Bay, CA	do	Oct. 9, 1987.
COTP San Francisco, CA, Reg. 87-15	do	Security Zone	Oct. 10, 1987.
COTP San Francisco, CA, Reg. 87-16	do	do	Oct. 10, 1987.
COTP LA/LB, CA, Reg. 88-01	K-4 Anchorage, Long Beach, CA	Safety Zone	Oct. 19, 1987.
COTP LA/LB, CA, Reg. 88-02	Berths 119 & 120, Los Angeles, CA	do	Dec. 16, 1987.
COTP LA/LB, CA, Reg. 87-15	33-39-42N, 118-03-40W Pacific Ocean	do	Nov. 18, 1987.

Date: February 4, 1988.

J.J. Smith,

Captain, U.S. Coast Guard, Executive Secretary, Marine Safety Council.

[FR Doc. 88-2927 Filed 2-10-88; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD7-87-58]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the National Aeronautics and Space Administration, the Coast Guard is changing the regulations governing Addison Point drawbridge (SR 405) at Kennedy Space Center, Florida by permitting the draw to remain closed during certain periods. This change is being made because the periods of peak vehicular traffic have changed. This action will accommodate the current needs of vehicular traffic and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on March 14, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, telephone (305) 536-4103.

SUPPLEMENTARY INFORMATION: On November 13, 1987, the Coast Guard published a notice of proposed rulemaking (52 FR 43623) concerning this amendment. The Commander, Seventh Coast Guard District, also published the proposed as a Public Notice dated November 23, 1987. In each notice, interested persons were given until December 28, 1987, to submit comments.

Drafting Information

The drafters of these regulations are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander S.T. Fuger, Jr., project attorney.

Discussion of Comments

One comment requesting an opening midway through each closed period was received. There is no provision for an opening in the existing closed periods which have been in effect since 1971, and no reports of problems for vessels. The bridge also has sufficient vertical clearance (27 feet) to pass most vessels without opening. No new information was presented which justifies changing the proposed rule. The final rule is unchanged from the proposed rule published on November 13, 1987.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs with tows. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. Section 117.261(l) is revised to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

* * * * *

(l) *John F. Kennedy Space Center bridge, mile 885 at Addison Point.* The draw shall open on signal; except that, from 6:30 a.m. to 8 a.m. and 3:30 p.m. to 5 p.m. Monday through Friday, except Federal holidays, the draw need not open.

* * * * *

Dated: January 28, 1988.

M.J. O'Brien,

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

[FR Doc. 88–2925 Filed 2–10–88; 8:45 am]

BILLING CODE 491-014-M

---

33 CFR Part 117

[CGD7–87–59]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the City of Jacksonville Beach, the Coast Guard is modifying regulations governing the McCormick drawbridge mile 747.5, at Jacksonville Beach by permitting the number of openings to be limited during certain periods. This change is being made because periods of peak vehicular traffic have increased. This action will accommodate the current needs of vehicular traffic and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on March 14, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, telephone (305) 536–4103.

SUPPLEMENTARY INFORMATION: On November 19, 1987 the Coast Guard published proposed rule (52 FR 44448) concerning this amendment. The Commander, Seventh Coast Guard District, also published the proposal as a Public Notice dated December 1, 1987. In each notice, interested persons were given until January 4, 1988 to submit comments.

Drafting Information

The drafters of these regulations are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander S.T. Fuger, Jr., project attorney.

Discussion of Comments

No comments were received. The final rule is unchanged from the proposed rule published on November 19, 1987.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs with tows. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. Section 117.261(b) is revised to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

* * * * *

(b) *McCormick Bridge, mile 747.5 at Jacksonville Beach.* The draw shall open on signal; except that during April, May, October and November from 7 a.m. to 9 a.m. and 4:30 p.m. to 6:30 p.m. Monday through Friday except Federal holidays, the draw need open only on the hour and half hour. During April, May, October and November from 12 noon to 6 p.m. Saturdays, Sundays and Federal holidays, the draw need open only on the hour and half hour.

* * * * *

Dated: January 28, 1988.

M. J. O'Brien,

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

[FR Doc. 88–2926 Filed 2–10–88; 8:45 am]

BILLING CODE 4910-14-M

---

33 CFR Part 165

[COTP Los Angeles/Long Beach Regulation 88–04]

Security Zone Regulations; Ports of Los Angeles and Long Beach, CA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a Security Zone within a 100 yard radius of HMY BRITTANIA while underway and moored within the Ports of Los Angeles and Long Beach. The zone is needed to safeguard the vessel against destruction from sabotage or other subversive acts, accidents or other causes of a similar nature. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATE: This regulation becomes effective at 0800, 26 February 1988. It terminates at 2000, 06 March 1988.

FOR FURTHER INFORMATION CONTACT: LTJG J. A. Stagliano at (213) 499–5580.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rule making was not published for this regulation and it is being made effective in less than 30 days after Federal Regulation publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent further/potential damage to the vessel.

Drafting Information

The drafters of this regulation are LTJG J. A. STAGLIANO, project officer for the Captain of the Port, and LCDR M. G. BARRIER project attorney, Eleventh Coast Guard District Legal Office.

Discussion of Regulation

The event requiring this regulation will occur between 0800, 26 February 1988 and 2000, 06 March 1988. This Security Zone is necessary to ensure the safety of HMY BRITTANIA while underway and moored in the Ports of Los Angeles and Long Beach.

List of Subjects in 33 CFR Part 165

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

Regulation.

In consideration of the foregoing, Subpart C of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR, 6.04–1, 6.04–1, 6.04–6 and 160.5(b)

2. A new § 165.T1169 is added to read as follows:

§ 165.T1169 Security Zone: Ports of Los Angeles and and Long Beach, CA.

(a) *Location.* The following area is a Security Zone: A 100 yard radius around HMY BRITTANIA while underway and moored within the Ports of Los Angeles and Long Beach

(b) *Effective Date.* This regulation becomes effective 0800, 26 February 1988. It terminates at 2000, 06 March 1988.

(c) *Regulations.* In accordance with the general regulations in 165.23 of this part, no vessel may enter, remain in, or transit the Security Zone without the permission of the Captain of the Port.

Dated: January 28, 1988.

R. A. Janecek,

Captain, U.S. Coast Guard, Captain of the Port, Los Angeles/Long Beach.

[FR Doc. 88–2924 Filed 2–10–88; 8:45 am]

BILLING CODE 491-014-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3326-6]

Approval and Promulgation of Implementation Plans; Ohio

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

ACTION: Final rule.

SUMMARY: USEPA is disapproving a revision to the Ohio State Implementation Plan (SIP) for ozone. The requested revision consists of a permanent relaxation of the volatile organic compound (VOC) emission limits previously approved by USEPA for the interior coatings applied to steel drums at Van Leer Containers, Inc., in Cuyahoga County, Ohio.

USEPA is disapproving this revision because the source is located in an urban ozone nonattainment area (the Cleveland area); and the State has not demonstrated that the requested revision would limit emissions to levels reflecting the application of reasonably available control technology, or that the revision would not interfere with timely attainment of the ozone standard or with progress towards attainment in the interim. The source remains subject to the control requirements of the Ohio Administrative Code (OAC), Rule 3745–21–09(U) and Rule 3745–21–04(C)(28).

EFFECTIVE DATE: This final rulemaking becomes effective on March 14, 1988.

ADDRESSES: Copies of the requested SIP revision are available at the following addresses for review: (It is recommended that interested parties telephone Debra Marcantonio, at (312) 886–6088, 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 Water Mark Drive, P.O. Box 1049, Columbus, Ohio 43266–1049.

FOR FURTHER INFORMAT1ON CONTACT: Debra Marcantonio, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886–6088.

SUPPLEMENTARY INFORMATION: On October 31, 1980 (45 FR 72122), and June 29, 1982 (47 FR 28097), USEPA approved Ohio's VOC rules as meeting the Clean Air Act's requirement for the application of Reasonable Available Control Technology (RACT) as a part of the Ohio 1979 ozone SIP. In lieu of the requirements in these rules for Van Leer Containers, Inc., in Cuyahoga County, Ohio Environmental Protection Agency (OEPA) submitted a site-specific SIP revision request for the metal parts coating lines on December 20, 1984. On December 2, 1986 (51 FR 43387), USEPA proposed to disapprove the request. After consideration of public comments, USEPA is today taking final action to disapprove the request.

Summary of SIP Revision

Van Leer Containers, Inc., operates a steel drum manufacturing facility in Cleveland, Ohio, that was previously operated by the Inland Steel Container Company. The facility makes steel drums for a wide variety of products. In producing the steel drums, metal parts coating lines are used to apply interior and exterior coatings to the drum shells and parts.

The coating lines are subject to the VOC emission limits contained in OAC Rule 3745–21–09(U). Under this rule, the exterior coatings must comply with a limit of 3.5 pounds of VOC per gallon of coating, excluding water, and the interior coatings must comply with a limit of 5.0 pounds of VOC per gallon of coating, excluding water. Alternatively, the source may install add-on control equipment that achieves the capture and control efficiencies for VOC specified in OAC Rule 3745–21–09(U)(1)(b). Van Leer Containers is subject to the December 31, 1982, compliance date contained in OAC Rule 3745–21–04(C)(28).

OEPA submitted to USEPA a request for a SIP revision that consists of a permanent relaxation of the VOC emission limits for the interior coatings used at the two metal parts coating lines. The requested revision sought the following VOC emission limits for interior coatings: 5.7 lbs/gallon of coating, excluding water, for phenolic coatings; 6.4 lbs/gallon of coating, excluding water for epoxy phenolic coatings; and 3.5 lbs/gallon of coating, excluding water (the existing limit) for exterior coatings. This revision would have allowed Van Leer to continue using all of the interior drum coatings that were employed at the facility in 1982, when VOC emissions from the interior coatings exceeded the level permitted under the existing SIP by 11.8 tons per year.

OEPA issued variances to Inland Steel Container, Van Leer's predecessor, which include the identical emission limits that the State seeks to have USEPA approve in this rulemaking action. In addition, the variances contain recordkeeping and reporting requirements.

To support the SIP revision request, OEPA submitted information that purports to demonstrate that it is not economically reasonable for Van Leer to install add-on control equipment, and that interior drum coatings which comply with OAC Rule 3745–21–09(U) are not currently available and are expected to be available in the near future.

USEPA Evaluation

A. Control Technology

Van Leer's facility is located in Cuyahoga County, Ohio, which is part of the Cleveland ozone nonattainment area. That area has been listed by the State of Ohio and by the Administrator, under sections 107(d)(1)(A) and 171(a) of the Clean Air Act, 42 U.S.C. sections 7407(d)(1)(A), 7601(a), as not meeting the primary and secondary National

Ambient Air Quality Standards (NAAQS) for ozone.

Section 172(b)(3) of the Act, 42 U.S.C. section 7502(b)(3), requires that the provisions of a SIP applicable to such an area require "such reduction in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology". Ozone is produced in the ambient air by reactions of VOC and Oxides of Nitrogen (NO_x). The interior drum coatings used by Van Leer emit VOC during their application and curing. The requested SIP revision may be approved only if it limits VOC emissions from the interior coatings to a level reflecting the application of reasonably available control technology (RACT).

Reductions in VOC emissions may be obtained either by reducing the VOC content of the coatings or by installing control systems to capture and destroy the VOC before they escape into the ambient air. USEPA concludes that the requested SIP revision does not limit VOC emissions to a level reflecting application of either of the above techniques, and that the State of Ohio has failed to demonstrate that the emission limitations contained in the requested SIP revision represent a RACT level of emissions control for the Van Leer facility. This notice summarizes the basis for USEPA's conclusions. More details are contained in the Technical Support Document.

1. VOC Content of Coatings

One of the tests the State must meet in order to satisfy U.S. EPA's requirements for approval of a SIP revision for Van Leer's facility is that it must demonstrate the emission limits in the existing SIP are not RACT and that the requested SIP revision would limit VOC emissions to levels reflecting those achieved by the application of RACT for Van Leer's interior drum coating processes.

A letter to OEPA from Van Leer's predecessor at the Cleveland facility, Inland Steel Container, reveals that, as of 1981, Inland employed phenolic interior drum coatings with VOC content as low as 4.6 lbs/gallon and epoxy phenolic coatings with VOC content as low as 4.7 lbs/gallon. The variance application submitted by Inland to OEPA indicates that, in 1982, it employed one interior drum coating with a VOC content of 4.8 lbs/gallon and numerous coatings in the range 5.1 to 5.3 lbs/gallon. Letters from coating suppliers to Inland indicate that interior drum coatings with VOC contents as low as 4.2 lbs/gallon have been supplied to the Cleveland facility. Finally, another manufacturer of steel drums reports employing clear interior coatings with VOC content as low as 4.4 to 4.5 lbs/gallon with the use of paint heaters (see below) and 4.6 to 4.7 lbs/gallon without heaters. The same manufacturer reports that its interior coatings, including those applied after heating, typically average between 4.8 and 5.0 pounds of VOC per gallon (Technical Support Document on file at the Regional Office for the Notice of Proposed Rulemaking, p. 3).

An April 20, 1981, letter from Inland to OEPA states that the VOC content of interior coatings currently in use in the pail and drum industry ranges from 4.9 to 5.7 lbs/gallon for phenolic coatings, and from 4.7 to 6.4 lbs/gallon for epoxy phenolic coatings. Thus, the requested SIP revision, if granted, would authorize Van Leer's use of some of the highest VOC coatings currently in use in the industry. The requested revision would not require Van Leer to use available coatings that comply with the emission limitation in the existing SIP, or even to consider VOC content in selecting coatings.

The State has not advanced any substantive general or source-specific reasons why the available coatings with VOC content below the existing Ohio SIP limit are not satisfactory for Van Leer's drums' intended uses. The State requested information from Inland concerning the specific requirements that had to be met by each of its interior drum coatings, but Inland replied with only a general statement of the types of requirements that must be met. Inland asserted that its customers request particular coatings and that it must comply with its customers' requests. Inland did not, however, explain specifically why the available coatings with VOC content below the limits in the existing Ohio SIP are not satisfactory for its customers. A blanket assertion cannot serve as a justification for a relaxation of the existing SIP limitations applicable to Van Leer's interior coating lines.

One steel drum manufacturer, mentioned above, has reported to USEPA that it has been able to reduce the amount of solvent added to its interior coatings by heating the coatings to reduce their viscosity. The manufacturer reports that, using paint heaters, it has reduced the VOC content of some of its interior coatings from a range of 4.6 to 4.7 lbs/gallon to a range of 4.4 to 4.5 lbs/gallon, a reduction of approximately 0.2 lbs/gallon (Technical Support Document accompanying Notice of Proposed Rulemaking, p. 3).

The record suggests that the use of paint heaters along with other control measures or technologies to reduce the VOC content of metal parts coatings may be considered RACT. Moreover, as discussed in the responses to comments below, Van Leer itself has shown that it can use heating in combination with improved spray equipment to comply with the existing SIP.

For these reasons, USEPA finds that the State has failed to demonstrate that the requested SIP revision would require emission reductions reflecting the application of RACT to reduce the VOC content of Van Leer's interior drum coatings and, therefore, the revision cannot be approved.

2. Control Systems

USEPA has determined that add-on controls, specifically incinerators and carbon adsorption, are technically feasible means of limiting VOC emissions from sources in the metal surface-coating category. (Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VI: Surface Coating of Miscellaneous Metal Parts and Products, EPA–450/2–78–015, pp. 2–6 through 2–9). Facilities that are unable to comply with emission limits by using low VOC coatings must install add-on controls to meet RACT level emission limitations. Other pail and drum coating facilities, similar to Van Leer's, have installed or are installing add-on controls. (Technical Support Document accompanying Notice of Proposed Rulemaking, pp. 3–5).

The State has submitted documentation from Van Leer that purports to demonstrate that control of VOC emissions through add-on controls would be unreasonably costly. Van Leer claims that the annualized cost of a control system would be approximately $7,000 per ton of VOC emission reduction. USEPA concludes, however, that the documentation submitted is not adequate to support this claim.

In the documentation submitted, Van Leer presents only the costs of a thermal incineration system that it assumes would be applied solely to its shell lining oven, which is responsible for only a fraction of the VOC emissions from the coating line. The State has submitted no information on the distribution of emissions between the shell lining oven and the other elements of the coating line, but it appears from the cost estimate that the shell lining oven is responsible for only about one-fourth of the emissions. The existing Ohio SIP specifies that applying a control system to the entire coating line is one acceptable method of compliance. See OAC Rule 3745–21–09(U)(1)(b). Applying a control system to the entire

coating line would result in greater VOC emission reductions than would its application solely to the lining oven, and could result in a lower cost per ton of emission reductions.

Moreover, the State has submitted no information or documentation to show that the system on which Van Leer's cost estimate is based is the proper size for control of the lining oven only. The use of a larger system than necessary would result in an artificially high estimate of the cost per ton of VOC removed.

The State has also not adequately explained or documented the cost estimate itself. Adequate details and documentation of the capital, utilities, labor, parts, and indirect operating costs have not been submitted.

The State has also failed to show that the incineration system used in the cost estimate is the most cost-effective for the Van Leer facility. A comparison should be made between catalytic and thermal incineration, and various levels of heat recovery should also be considered. Finally, the State's submission does not present adequate consideration of carbon adsorption as a control technique.

For these reasons, USEPA concludes that the State has not shown that a control system is not RACT for the Van Leer facility. Therefore, the requested SIP revision cannot be approved.

B. Air Quality

Section 110(a)(2)(B) of the Clean Air Act, 42 U.S.C. section 7410(a)(2)(B), requires that SIPs for an air pollutant include such control measures as are necessary to ensure attainment and maintenance of the NAAQS for that pollutant. Section 110(a)(3)(A) of the Act, 42 U.S.C. section 7410(a)(3)(A), applies this same requirement to revisions of the plans. USEPA's regulations implementing section 110 assign to the States the burden of demonstrating that their plans satisfy this requirement (40 CFR 51.13(e), and 51.14(c)).

As noted previously, Van Leer's facility is located in a nonattainment area for ozone, a photochemical oxidant. Section 172(a)(2) of the Act, 42 U.S.C. section 7502(a)(2), requires that the provisions of the SIP applicable to such an area provide for attainment of the primary NAAQS for ozone not later than December 31, 1987. Further, section 172(b)(3) of the Act, 42 U.S.C. section 7502(b)(3) requires that, in the interim, the plan provide for reasonable further progress (RFP) towards such attainment. As with the requirement of attainment, USEPA has interpreted the Act as assigning to the States the burden of demonstrating that their plans meet the requirement of RFP. (See 46 FR 7182, 7187 (1981)).

A State seeking to revise an USEPA-approved emission limit for a source in a nonattainment area must demonstrate that the requested revision would not interfere with attainment of the ozone standard by December 31, 1987, or with RFP in the interim. If, as here, the requested revision is an uncompensated relaxation of an emission limit, the State can meet this burden by, among other means, demonstrating that the unrevised SIP provides for a sufficient "cushion" to accommodate the relaxation. In other words, the State could demonstrate that the unrevised SIP provides a greater level of control than is necessary to ensure RFP and timely attainment.

The State has attempted to meet this burden by relying on a 1982 SIP submission to USEPA that purported to demonstrate that the Cleveland area would attain the ozone standard, with a substantial cushion, by the end of 1982. USEPA, however, proposed to disapprove that demonstration on July 25, 1984 (49 FR 29973), and issued its final disapproval on March 25, 1986 (51 FR 10198). The attainment demonstration was disapproved because air quality data collected after 1982 revealed that the standard had not, in fact, been attained and that, therefore, the demonstration was inaccurate.

Therefore, USEPA concludes that the State has not shown that the requested relaxation of an approved RACT based emission limit would neither interfere with timely attainment nor hinder reasonable further progress toward attainment of the ozone standard and, consequently, the relaxation cannot be approved.

Public Comments

On December 2, 1986 (51 FR 43387) USEPA proposed to disapprove the revision to the Ohio State Implementation Plan (SIP) for ozone for Van Leer Containers, Inc. At that time, a 30-day public comment period was provided. On March 2, 1987 (52 FR 6175), USEPA extended the comment period an additional 60 days in response to a request from Van Leer Containers. During the public comment period, one comment was received from Squire, Sanders and Dempsey, Counselors at Law on behalf of Van Leer Containers, Inc. Each of the issues raised by the commenter and USEPA's response is provided below.

(a) *Comment:* The commenter references a September 10, 1986, letter to Eric Cohen, USEPA Region V, from Dale E. Stephenson of Squire, Sanders and Dempsey which states: The total amount of VOCs in [interior] coatings over 5.0 lbs. per gallon during the whole year in 1985 was less than 400 *pounds*, not even considering other methods of eliminating VOCs used at the Van Leer facility. Thus, the annualized cost for installing add-on incineration would have likely been in excess of $250,000 per ton controlled—far exceeding the definition of "reasonably available control technology" and the range of cost for controls considered in the background documents for this category of sources.

USEPA Response: This comment provides no apparent basis for the $250,000 per ton cost effectiveness value. Without adequate documentation, it is not possible to consider this cost per ton value cited by Van Leer. Moreover, Van Leer appears to unjustifiably assume that an add-on control system would reduce emissions by only the 400 pounds by which the facility exceeds the limits in OAC 3745-21-09(U)(1)(a). OAC 3745-21-09(U)(1)(b)(ii), however, requires that any add-on control system achieve a control efficiency, of ninety percent, which may yield emission reductions much greater than 400 pounds. Finally, and most important, the September 10, 1986, letter states that Van Leer has installed new, low pressure airless spray equipment for applying interior coatings at a significantly increased temperature of 180–190°F, and that this "new coating system has resulted in slight reductions in VOC content so that *all* interior coatings are now below 5.0 lbs. per gallon." The interior drum coating limitation in Ohio's approved VOC RACT regulations is 5.0 lbs/gallon. This indicates the ability of Van Leer to comply with Ohio's SIP without add-on control equipment. Although Van Leer indicated that it was having some problems with its new system, there seems to be no basis for the SIP relaxation it has requested.

(b) *Comment:* Van Leer referenced a February 21, 1985, memorandum from Steve Rothblatt to Tom Helms as an example of material supporting its proposed SIP revision. Van Leer states that this memorandum "accurately acknowledges that complying coatings were not found to be available."

USEPA Response: The commenter has both misquoted the subject memorandum and misrepresented its intent. The memorandum actually states the following:

> In mid-1983, Region V was contacted by Illinois EPA regarding a number of drum and barrel companies that were unable to comply with this 4.3 pounds VOC per gallon of

coating limit. In addition, substantial documentation has been submitted to Region V by Ohio EPA that interior pail and drum coatings which meet 4.3 lbs VOC/gallon of coating are unavailable.

Therefore, Van Leer's comment is immaterial for the following reasons:

(1) It refers to compliance with a 4.3 lbs/gal limit and not the 5.0 lbs/gal limit to which Van Leer is subject.

(2) USEPA Region V did not state that compliant coatings were not available but rather referenced communications with Ohio EPA and Illinois EPA. The memorandum was not meant as a policy statement by USEPA but rather as a request for OAQPS to consider reassessing RACT for interior pail and drum coatings.

(3) Ohio's 5.0 lbs/gal limit was adopted by Ohio, and approved by USEPA, to accommodate the information provided by Ohio EPA.

(4) The February 21, 1985, memorandum is over two years old and does not address improvements since that time; e.g., in spray application technology.

Comment: Van Leer referenced an April 2, 1985, memorandum from Mr. Helms which responded to Mr. Rothblatt's February 21, 1985, memorandum. Van Leer specifically referenced the following paragraph from that memorandum: "The company must show that noncomplying coatings represent the lowest VOC content coatings available for their particular process. Also, it must be shown that add-on controls are excessively costly. If a valid and supportable showing is made then a SIP change could be made."

USEPA Response: USEPA's December 2, 1986, proposed disapproval is consistent with Mr. Helm's guidance in the above paragraph. The notice of proposed disapproval provides an extensive discussion of Van Leer's failure to demonstrate that it is using coatings with the lowest feasible VOC contents and also that Van Leer did not adequately document the infeasibility of using add-on controls. The commenter's March 3, 1987, letter provides no additional facts which would lead to a change in the position stated in the December 2, 1986, notice of proposed disapproval.

Comment: Van Leer referenced a Petition for Industry Rulemaking from *In the Matter of Acme Barrel Company, et al.* v. *Illinois Pollution Control Board.* In this petition, the Illinois Drum Manufacturers and Reconditioners proposed a limit of 5.3 lbs/gal of coatings. The commenter states that an emission limit of 5.3 lbs. per gallon as suggested in the above referenced petition would be appropriate for Van Leer's Cleveland facility.

USEPA Response: First, the referenced petition has not been acted upon by the Illinois Pollution Control Board (Illinois has not submitted it as a SIP revision nor has USEPA approved it as a revision to the Illinois SIP).

Secondly, the SIP revision for the Van Leer plant requests limits of 5.7 lbs/gal for interior phenolic coatings and 6.4 lbs/gal for interior epoxy phenolic coatings. Both of these limits are higher than the 5.3 lbs/gal limit which Van Leer states would be appropriate for its Cleveland facility.

It should also be noted that the voluminous petition was referenced in a very general way, and there were no references to specific parts of this document.

Comment: Van Leer added that it does "not believe anyone would argue that $250,000 per ton controlled for add-on incineration is 'economically feasible' in the present situation. [*See*, e.g., 50 FR 15421 (April 18, 1985), where 'a more than two-to-one cost differential' for add-on controls above the CTG anticipated cost justified a facility-specific RACT determination in the form of a SIP revision in an ozone nonattainment area.] The control cost per ton in Van Leer's case would be 250 times more than the cost found excessive in the above-referenced case."

USEPA Response: Van Leer's comment lacks merit for the following reasons:

(1) As indicated previously, Van Leer has not documented its $250,000 per ton value, and the value appears to be based on an unjustified assumption. Moreover, as also discussed previously, Van Leer itself has shown that it can comply with the existing SIP without using add-on controls.

(2) The April 18, 1985, Federal Register citation refers to relaxations granted to two dry cleaners in Kentucky. The actual versus allowable emissions for these two dry cleaners are (1) 1.75 tons VOC/year uncontrolled vs. 0.875 tons VOC/year allowable emissions, and (2) 0.8 ton VOC/year uncontrolled versus 0.4 ton VOC/year allowable emissions. This notice of final rulemaking states that these two cleaners "are small and insignificant to the overall VOC control strategy in the Northern Kentucky ozone nonattainment area" and the revisions "will not interfere with the 'Reasonable Further Progress' toward attainment of the ozone standard in this area." In contrast, Van Leer's (1982) allowable emissions were 43 tons per year. Therefore, these small sources are not relevant to Van Leer's proposed revision.

Conclusion

As discussed in detail above, the additional information submitted during the public comment period provides no basis for altering USEPA's position that Van Leer has not documented the infeasibility of complying with Ohio's interior drum limit by reducing the VOC content of its coatings or utilizing add-on control. Furthermore, Van Leer's September 10, 1986, letter states that "all interior coatings are now below 5.0 lbs. per gallon." Thus, by Van Leer's own account, it is currently in compliance with the SIP. Van Leer also states, in its March 3, 1987, comment that an emission limit of 5.3 lbs/gallon would be appropriate for Van Leer's Cleveland facility. As stated previously, this limit is more stringent than what is in the SIP revision request for Van Leer. Therefore, USEPA is taking final action to disapprove the SIP revision requested for Van Leer Containers, Inc. in Cuyahoga County, Ohio.

Under Executive Order 12291, this action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 11, 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

Intergovernmental relations, Air pollution control, Hydrocarbons, Ozone.

Dated: February 4, 1988.

A. James Barnes,

Acting Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Ohio—Subpart KK

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1885 is amended by adding paragraph (h) to read as follows:

§ 52.1885 Control strategy: Ozone.

* * * * *

(h) *Disapproval.* On December 20, 1984, the Ohio Environmental Protection Agency submitted a revision to the Ozone State Implementation Plan (SIP) for Volatile Organic Compounds (VOC).

This revision request consists of a permanent relaxation of the VOC emission limits for the interior coatings used at the two metal parts coating lines at Van Leer Containers, Inc. in Cleveland, Ohio. As a result of USEPA's disapproval, the source remains subject to the control requirements of the Ohio Administrative Code (OAC) Rule 3745-21-09(U) and Rule 3745-21-04(C)(28) of the federally approved Ohio SIP.

[FR Doc. 88-2914 Filed 2-10-88; 8:45 am]
BILLING CODE 6560-50-M

40 CFR PART 65

[FRL-3327-1]

Administrative Orders Permitting A Delay in Compliance With Texas State Implementation Plan Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is taking final action to disapprove a Delayed Compliance Order (DCO) issued by the Texas Air Control Board (TACB) to General Motors Corporation (GM) Arlington, Tarrant County, Texas, on January 16, 1987. The DCO purported to require GM to bring air emissions of volatile organic compounds from their automobile topcoat and final paint repair application processes into compliance with the Texas State Implementation Plan (SIP) by August 28, 1987. The SIP required compliance by December 31, 1986. Tarrant County is presently not attaining the National Ambient Air Quality Standard for ozone. The DCO, as submitted to the EPA by the TACB, did not meet the requirements of Section 113 of the Clean Air Act and cannot be approved by EPA. Because the order has been issued to a "major" stationary source and permits a delay in compliance with the Texas SIP, section 113 of the Clean Air Act requires it to be approved by EPA before it can become effective. Since the order was not approved by EPA, the DCO will not become an addition to the Texas SIP.

EFFECTIVE DATE: This final action becomes effective February 11, 1988.

FOR FURTHER INFORMATION CONTACT: Rich Raybourne, ALO Enforcement Section (6T-EA), Air, Pesticides, and Toxics Division, Environmental Protection Agency, Region 6 Office, 1445 Ross Avenue, Dallas, Texas 75202, (214) 655-7223.

SUPPLEMENTARY INFORMATION: On March 25, 1980, (45 FR 19231), EPA approved TACB Regulation V, Rule 115.191, "Surface Coating Processes in Brazoria, Dallas, EL Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant and Victoria Counties," as a revision to the Texas SIP. Rule 115.191(8)(A) and (B) prohibits operation of certain automobile and light-duty truck coating (painting) facilities unless they limit emissions of volatile organic compounds (VOC) on the basis of solvent content per gallon of coating (minus water). Rule 115.192 provides an alternate method of compliance by the use of "add-on" control equipment such as carbon absorption systems or incineration systems with capture and abatement systems that are 80% efficient overall. As noted in the proposed rulemaking relative to this notice published at 52 FR 28575 (July 31, 1987), sources subject to the Rule were to have submitted a final control plan for compliance to the TACB by December 31, 1979, and were to be in compliance by December 31, 1986. GM's Arlington plant is a "major" stationary source, which emits more than 100 tons of VOC per year from automobile coating processes and is subject to Rule 115.191. Based on GM's contention that they were unable to comply with the VOC limits in Rule 115.191(8)(B) by December 31, 1986, except by shutting down the affected automobile coating processes, on January 16, 1987, the TACB issued an order to GM extending their SIP compliance date until August 28, 1987. This order was subsequently submitted to the EPA as a DCO pursuant to section 113(d) of the Clean Air Act. The TACB transmitted the DCO to EPA on January 20, 1987. EPA reviewed the DCO,[1] and found that it does not satisfy the requirements of section 113(d) of the Clean Air Act.

Briefly restated, the DCO deficiencies are as follows:

- The DCO does not have a schedule to control emissions from all of the affected paint application areas.
- The DCO does not demonstrate final compliance with the applicable regulations.
- The DCO allows monthly averaging of VOC content in coatings, which does not establish compliance with the short term standard.
- The TACB has not documented communication with local governments and the Federal Land Manager regarding the DCO.[2]

Public Comments

All interested persons were invited to submit written comments on the July 31, 1987, proposed disapproval action. Three written comments were received by the date specified and were considered in determining EPA's final action on the DCO.

The comments are summarized below in the order received by the EPA, followed by EPA's response.

1. By letter of August 12, 1987 (received August 25, 1987) Mr. Paul T. Gough, Sherman Oaks Chapter Concerned About Clean Air, Sherman Oaks, California commented that the Clean Air Act (the Act) at section 113(d)(2) requires

> * * * that the Administrator *shall* determine, not later than 90 days after *receipt of notice* of the issuance of an order whether or not the order is in accordance with the requirements of the chapter. Instead of complying with the mandatory language of the Act, it appears that the EPA is deliberately failing to comply with the language in section 113(d)(2).

Response: We responded to the comment by letter dated September 2, 1987. In this letter, we noted that the EPA shared his concern that actions are taken within the timeframes specified by the applicable sections of the Act. We specifically noted that

> * * * EPA regards these statutory deadlines very seriously and makes every effort to comply with them. However, the Air Enforcement Program in this regional office has been charged with review of an unusually large number of potential actions this year and as a result it has become increasingly hard to meet deadlines such as the one imposed for DCOs. While it is unfortunate that the 90 day requirement of the Act was missed, please note that this was unavoidable due to the press of work.

In addition, we note that the first indication that EPA had of TACB's intent to submit a DCO for the GM-Arlington facility was upon receipt of the draft DCO five days prior to the public hearing on the DCO. DCOs are regarded by EPA and, as exhibited by TACB's previous practice in other DCOs, by TACB as SIP revisions which must be administratively processed and approved by both TACB and EPA. In order to aid and allow EPA to meet the statuatory deadlines imposed on processing DCOs and SIP revisions, EPA and the State have agreed on procedures and time lines for consultation and submissions of draft actions to EPA by

[1] "EPA Review of Texas State Delayed Compliance Order for General Motors Corporation, Tarrant County, Texas, February 1987". This detailed evaluation was made available to the public in the July 31, 1987, edition of the **Federal Register**, at 52 FR 28575.

[2] Note that this deficiency is stricken for purposes of this final rulemaking.

TACB. These procedures are agreed to by TACB in the § 105 grant documents, i.e., submission of draft SIP revisions 30 days prior to public hearing. By failing to follow these procedures in the case of the GM–DCO, TACB significantly impaired EPA's ability to prepare draft comments prior to public hearing and to meet the 90 day statutory deadline imposed by the Act.

2. By letter of August 28, 1987 (received September 1, 1987) Mr. John B. Turney, General Counsel, Texas Air Control Board, Austin, Texas had two particular concerns that will be addressed in this notice.

a.

First, the proposal notes as a deficiency in the Order the failure to document coordination with local governments and the Federal Land Manager. We believe our submittal of the General Motors (GM) Order in this respect was no different than for the five DCO's which have been approved by EPA and are referenced at 40 CFR 65.481. In the extensive discussions with Region 6 prior to submittal of the GM Order, including EPA's detailed written comments pursuant to the public hearing, no indication was given that the proposal was deficient in this respect, or that EPA's previous approvals could not be relied on by the state. Under these circumstances, we think that it would represent a substantial contradiction of established practice for EPA to retain on final action the position stated in the proposal.

Response: EPA concurs that a contradiction of previous practice would occur if the above-noted deficiency was retained on final action. Therefore, EPA strikes this deficiency for purposes of this final rulemaking.

b.

Second, the analysis in support of the proposal includes a determination that the incinerators installed in the first color booth and oven will not remove 80% of the emissions from all color booths and ovens as required by Rule 115.192. As Region 6 staff have been previously advised, this position contradicts our interpretation of Rule 115.192. In our view the Rule requires that an incinerator provide for 80% removal of the emissions from the emission source served by that incinerator. It therefore represents a technology standard for capture and incineration to the extent that means of control is used, and is not intended as a total emissions limitation for any category of sources addressed by Rule 115.191(8)(B).

Response: The Texas SIP provides two ways for General Motors to operate its surface coating operations in compliance with the emission limitations of the SIP. The first method available to General Motors is to use formulations of coatings which emit no more than 2.8 (topcoat) or 4.8 (final repair) pounds of VOCs per gallon of coating (minus water and exempt solvents applied), based on a daily weighted average of coatings used in the operation. (Rule 115.191(8)(B).) The second method available to General Motors is to use add-on controls with a capture and abatement system that is at least 80% efficient overall. (Rule 115.191(8)(B).) These two alternatives reflect the guidance found in the Control Techniques Guidelines (CTG) of May 1977, which recommends an efficiency requirement for situations where add-on control technology is used in lieu of complying low-solvent coatings. An alternate standard was recommended because of the difficulty of determining mass emissions from the control system and relating them to the quantity of coatings applied. Thus, the rules establish two separate methods of limiting emissions, each with its own requirements for compliance.

Since the DCO does not require General Motors to use coating formulations which comply with the limits of Rule 115.191(8)(B), EPA based its analysis on the assumption that General Motors was attempting to operate its topcoat application in compliance with the Texas SIP by using add-on controls. The way for General Motors to be successful in complying by using add-on controls would be to capture and abate 80% of the VOC emitted from the topcoat application operation. The DCO does not require General Motors to do that.

The interpretation of Rule 119.192 set forth in the comment does not save the DCO. If only emissions from the booth and oven with add-on controls are considered in determining whether the incinerator meets the efficiency requirements, the DCO leaves emissions from the remainder of the topcoat application unaccounted for under either the coating limits of Rule 115.191(8)(B) or the mandatory reduction requirements of Rule 115.192. The DCO, therefore, does not provide for final compliance with the requirements of the applicable implementation plan and must be disapproved.

3. By letter of August 31, 1987 (received September 1, 1987) Mr. Patrick J. McCarroll, Attorney, General Motors Corporation provided several comments.

a.

EPA has failed to fulfill its statutory obligation to determine, not later than 90 days after receipt of notice of the issuance of the DCO, whether the DCO is in accordance with the requirements of the Clean Air Act.

Response: EPA's response on this comment is the same response as for the comment submitted by Paul T. Gough discussed above.

b.

* * * since General Motors has installed and is operating the "add-on" control equipment incineration system required by the DCO, General Motors is now in compliance with Texas SIP Rule 115.191(8)(B) through use of add-on controls.

Response: A source does not comply with Rule 115.191(8)(B) by using add-on controls. Compliance with Rule 115.191(8)(B) is achieved by using a coating formulation which contains less VOCs than the stated limits. Add-on controls are subject to the efficiency requirement of Rule 115.192.

c.

On page 28576 of the EPA proposed DCO disapproval, EPA referred to the May 12, 1987, notice to General Motors alleging noncompliance with the Texas SIP. Reference to this notice is irrelevant to the merits of the DCO. * * * the failure of EPA to act within the 90-day period as required under section 113(d)(2) of the Clean Air Act precludes EPA from taking any enforcement action. See, *American Cyanamid Co. v. U.S. EPA*, 810 F.2d 493 (5th Cir. 1987).

Response: The statement that the May 12, 1987, Notice of Violation is irrelevant to the merits of the DCO, which must be evaluated under the requirements of section 113(b) only, is correct. The reference to the Notice of Violation is made only as part of a background statement. Just as the Notice of Violation is not relevant to the merits of the DCO, the interpretation of *American Cyanamid* in the comment is not relevant to this action.

d.

The TACB found that the topcoat and final repair operations are a single process for purposes of abatement. The paints used in topcoat and final repair must be compatible, match in appearance and act as one contiguous coating. Therefore, the DCO required overall emission reductions through incineration to compensate for total excess emissions over RACT from topcoat and final repair. This incineration equipment has been installed by General Motors at a cost of over fourteen million dollars. Installing abatement equipment on the final repair exhaust is not practical nor reasonable and thus was not required by TACB. If the DCO meets the requirements of section 113(d)(1) of the Clean Air Act, EPA is required to approve it. See, *Bethlehem Steel v. U.S. EPA*, 651 F.2d 861 (3rd Cir. 1981) and *Bethlehem Steel v. U.S. EPA*, 638 F.2d 994 7th Cir. 1980). Since the DCO contains a schedule and timetable for compliance, EPA cannot disapprove the DCO simply because EPA disagrees with the schedule or timetable the TACB has set.

Response: When TACB proposed and EPA adopted the current SIP, the rulemaking considered the topcoat and final repair paint application operation as separate and distinct operations necessary to complete a finished automobile. The topcoat and final repair

operations are physically separated by a considerable distance and the technique of application is substantially different, thus the current Texas SIP lists two separate and distinctly different emission limitations for topcoat and final repair operations. Since the topcoat and final repair areas are in fact separate and distinct painting operations, the applicable SIP limitations for each area governs emissions.

EPA must evaluate the DCO to determine if it complies with the requirements of section 113(d)(1) of the Clean Air Act. One of those requirements is that the DCO provide for final compliance with the applicable implementation plan. In this situation, the applicable implementation plan provides the two alternatives of complying with coating formulations or comply with add-ons of a certain efficiency. The DCO requires final compliance with neither of the two alternatives by the final repair application. The DCO, therefore, fails to satisfy the requirements of section 113 and cannot be approved.

e.

The EPA alleges that the DCO does not require final compliance with the applicable regulations of the SIP because Texas SIP Rule 115.192 requires that any add-on control equipment such as incinerators be at least 80% efficient overall in capture and destruction efficiency. The rule as interpreted by the TACB requires 80% overall efficiency only for the specific airstream on which the incinerator is installed. As fully documented by the permit application and as determined by the TACB, both the oven incinerator and the booth incinerator achieve an overall efficiency of over 80% on the individual air streams involved.

* * * The requirement that the incinerators destroy 93–95% of the emissions specified in the DCO was based on findings by the TACB that these incinerators would have at least a 90% capture efficiency and thus would be 80% efficient overall. Thus, the order requires final compliance as required by section 113(d)(1)(D) of the Clean Air Act.

Response: The response to this comment is the same as to the second comment by TACB.

f.

EPA claims that the DCO allows monthly averaging of the VOC content of the coatings, "which does not establish compliance with the short term standard". (52 FR 28576.) It is not clear to what short term standard EPA is referring. Assuming that EPA is referring to the short term ambient air standard for ozone, that standard does not place emission limitations on the General Motors facility. The emission limitations on the General Motors facility are found in Texas SIP Rule 115.191(8)(B) and General Motors is complying with those limits through the use of add-on controls as authorized by Rule 115.192.

In the EPA Review Document at pp. 5 and 6, EPA alludes to the alleged deficiency of lack of daily averaging under the heading of "EPA Policy Requirements and Findings". It is clear from EPA's discussion that this "requirement" of daily averaging is merely a policy of EPA set forth in an EPA internal memorandum of January 20, 1984. Since the EPA policy memorandum states that the policy is only for instances where longer term averaging is used to circumvent the installation of overall RACT level controls, and since RACT level controls have been installed and demonstrated on a per vehicle basis, the policy does not apply. Nonetheless, General Motors complies with this policy memorandum in that its recordkeeping is on a per automobile basis, which is even more frequent than a daily average. As recognized by the TACB, actual emissions will be unaffected by averaging time, since the process has no variation in coating usage per vehicle. EPA may not disapprove the DCO on the basis of lack of daily averaging because daily averaging is *not a requirement* set forth in section 113 (d)(1) of the Clean Air Act. *Bethlehem Steel v. U.S. EPA, supra.*

Response: The comment states that GM is complying with the emission limitations found in the Texas SIP Rule 115.191(8)(B). A careful reading of Rule 115.191 shows that all emission limitations set forth in this rule "* * * are based on a daily weighted average, except for those in paragraph 10." Since the relevant paragraph is 115.191(8), it is clear that the Texas SIP rule requires a daily weighted average to determine compliance with the emission limitation.

The comment states that recordkeeping is on a per automobile basis, more frequent than a daily average, and that emissions are not affected by averaging time, as the process has no variation in coating usage per vehicle. EPA has no data to support the contention that emissions are unaffected by averaging time. EPA believes compliance will certainly be affected by averaging time. In addition, it is EPA's understanding that there can be significant variation in coating usage per vehicle, depending on several variables, including such factors as air flow rates through the coating areas at any given time of operation.

Section 113(d)(1) of the Clean Air Act states that DCOs can be issued if, among other requirements, the order requires compliance with the provisions of section 110(a)(2)(F).

Section 110(a)(2)(F) requires emission reporting under the applicable SIP to be "* * * correlated by the State agency with any emission limitations or standards established pursuant to this Act * * *". The applicable State SIP rule was established pursuant to the Act, and requires daily averaging to protect the short term ambient standard for ozone. Daily averaging is, therefore, a requirement of the applicable implementation plan and of section 113(d)(1).

The comment is correct in its assumption that the short term standard being referenced is that for ozone. As noted above, the original intent of EPA's policy on daily weighted averages, as reflected in the current TACB rule, was protection of the short term ambient ozone standard. The discussion of the daily averaging in the DCO proposed disapproval is merely a clarification of EPA's intent in approval of the TACB rule 115.191. The comment that daily averaging is merely a policy of EPA set forth in an EPA internal memorandum is incorrect; daily averaging is a requirement of the Texas SIP.

Since daily averaging is required by the applicable implementation plan but not by the DCO, the DCO fails to satisfy the requirement of section 113(d)(1) that the DCO require final compliance with the terms of the SIP. The DCO, therefore cannot be approved.

g.

The EPA alleges that TACB has not documented communication with local governments and the federal land manager regarding the DCO. 52 FR 28576. Contrary to these allegations by EPA, TACB issued public notice of the DCO, invited comments and held a public hearing in Arlington, Texas. Moreover, TACB consulted with the Arlington Health Department, Tarrant County Health Department and North Central Texas Council of Governments, as discussed in the DCO.

Response: As previously noted, EPA concurs with this comment, and therefore strikes this deficiency for the purposes of this action.

Current Action

The EPA is hereby disapproving the Delayed Compliance Order issued by the Texas Air Control Board to General Motors Corporation at Arlington, Texas on January 16, 1987, subsequently transmitted to the EPA on January 20, 1987.

The public should be advised that this action will be effective on the date listed in the **EFFECTIVE DATE** section of this rulemaking. Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit within 60 days of the date of publication of this notice of final rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).) This DCO affects only one entity and involves an "Order", rather than a "Rule", and therefore this action is not subject to the requirements of the

Regulatory Flexibility Act or to Executive Order 12291.

This Notice of Disapproval is issued under the authority of sections 113 and 301 of the Clean Air Act, 42 U.S.C. 7413 and 7601.

List of Subjects in 40 CFR Part 65

Air pollution control.

PART 65—DELAYED COMPLIANCE ORDERS

Part 65 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 65 continues to read as follows:

Authority: Secs. 113 and 301 of the Clean Air Act, as amended (42 U.S.C. 7413 and 7601).

2. In § 65.482, one source is added to the table to read as follows:

§ 65.482 EPA disapproval of State delayed compliance orders.

* * * * *

Source	Location	Order No.	SIP regulation(s) involved	Date of Federal Register proposal	Final compliance date
General Motors Corp	Arlington, TX	TACB No. 87-01	Rule 115.191	7/31/87	

Date: February 5, 1988.

A. James Barnes,

Acting Administrator.

[FR Doc. 88-2915 Filed 2-10-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

46 CFR Part 503

[Docket No. 87-23]

Privacy Act of 1974; Access to Any Record of Identifiable Personal Information

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission is amending its Privacy Act regulations to adopt exemptions from disclosure requirements in regard to information about individuals which is included in certain investigatory materials.

DATE: Effective March 14, 1988.

FOR FURTHER INFORMATION CONTACT: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: The Federal Maritime Commission ("Commission") by notice published December 2, 1987 (52 FR 45835) proposed to amend its regulations implementing the Privacy Act ("Act"), 5 U.S.C. 552a. The proposed amendment would promulgate an exemption under subsections (k)(2) and (5) of the Act for various systems of records [1] within the agency. The exemption would apply to those systems of records which include either investigatory material compiled for law enforcement purposes or investigatory material compiled for the purpose of determining suitability for Federal civilian employment or for access to classified information, but, in regard to the latter, only to the extent disclosure would reveal the identity of a confidential source. The thrust of the exemption is that the provisions of subsections (c)(3) and (d) of the Act, requiring an accounting of disclosures and access to records for an individual about whom the records pertain, would not routinely apply in regard to these classes of investigatory records. The exemption is appropriate in regard to law enforcement records to avoid compromise of ongoing investigations, revelation of the identity of confidential sources, or invasion of personal privacy of third parties. The exemption is appropriate in regard to personnel related investigatory records to protect confidential sources.

[1] The Commission recently published an updated notice of the existence and character of the agency's systems of records (52 FR 10802; April 3, 1987).

List of Subjects in 46 CFR Part 503

Privacy.

No comments were received in response to the notice of proposed rulemaking. Accordingly, the Commission has determined to adopt the proposed rule as final, without change.

The Commission has determined that this rule is not a "major rule" as defined in Executive Order 12291, dated February 17, 1981.

The Commission certifies pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units or small governmental organizations.

Therefore, pursuant to 5 U.S.C. 552a(k) and 553, Part 503 of Title 46, Code of Federal Regulations is amended as follows:

PART 503—[AMENDED]

1. The authority citation for Part 503 continues to read as follows:

Authority: 5 U.S.C. 552, 552a, 552b, 553; E.O. 12356, 47 FR 14874, 15557, 3 CFR 1982 Comp., p. 167.

2. Section 503.68 is revised to read as follows:

§ 503.68 Exemptions.

The following systems of records are exempt from the provisions of 5 U.S.C. 552a(c)(3) and (d) which otherwise require the Commission to provide the individual named in the records an accounting of disclosures and access to and opportunity to amend the records. The scope of the exemptions and the reasons therefor are described for each particular system of records.

(a) *FMC—1 Personnel Security File.* All information about individuals that meets the criteria of 5 U.S.C. 552a(k)(5), regarding suitability, eligibility or qualifications for Federal civilian employment or for access to classified information, to the extent that disclosure would reveal the identity of a source who furnished information to the Commission under a promise of confidentiality. Exemption from disclosure is required to honor promises of confidentiality.

(b) *FMC—7 Licensed Ocean Freight Forwarders File.* All information that meets the criteria of 5 U.S.C. 552a(k)(2) regarding investigatory material compiled for law enforcement purposes. Exemption is appropriate because disclosure might compromise ongoing investigations, reveal the identity of confidential sources or constitute unwarranted invasions of personal privacy of third parties.

(c) *FMC—22 Investigatory Files.* All information that meets the criteria of 5 U.S.C. 552a(k)(2) regarding investigatory material compiled for law enforcement purposes. Exemption is appropriate because disclosure might compromise ongoing investigations, reveal the identity of confidential sources or

constitute unwarranted invasions of personal privacy of third parties.

(c) *FMC—24 Informal Inquiries and Complaint Files.* All information that meets the criteria of 5 U.S.C. 552a(k)(2) regarding investigatory material compiled for law enforcement purposes. Exemption is appropriate because disclosure might compromise ongoing investigations, reveal the identity of confidential sources or constitute unwarranted invasions of personal privacy of third parties.

(e) *FMC—25 Inspector General File.* (1) All information that meets the criteria of 5 U.S.C. 552a(k)(2) regarding investigatory material compiled for law enforcement purposes. Exemption is appropriate because disclosure might compromise ongoing investigations, reveal the identity of confidential sources or constitute unwarranted invasions of personal privacy of third parties.

(2) All information about individuals that meets the criteria of 5 U.S.C. 552a(k)(5) regarding suitability, eligibility or qualifications for Federal civilian employment or for access to classified information, to the extent that disclosure would reveal the identity of a source who furnished information to the Commission under a promise of confidentiality. Exemption from disclosure is required to honor promises of confidentiality.

(f) *FMC—26 Administrative Grievance File.* (1) All information that meets the criteria of 5 U.S.C. 552a(k)(2) regarding investigatory material compiled for law enforcement purposes. Exemption is appropriate because disclosure might compromise ongoing investigations, reveal the identity of confidential sources or constitute unwarranted invasions of personal privacy of third parties.

(2) All information about individuals that meets the criteria of 5 U.S.C. 552a(k)(5), regarding suitability, eligibility or qualifications for Federal civilian employment or for access to classified information, to the extent that disclosure would reveal the identity of a source who furnished information to the Commission under a promise of confidentiality. Exemption from disclosure is required to honor promises of confidentiality.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 88-2942 Filed 2-10-88; 8:45 am]

BILLING CODE 6730-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1206 and 1249

[Docket No. 39953 (Sub-1)]

Revision to the Accounting and Reporting Requirements for Motor Carriers of Passengers

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: Subsequent to Notice of Proposed Rulemaking and comments under Docket No. 39953 Sub-No. 1, Revision to the Accounting and Reporting Requirements for Motor Carriers of Passengers, served August 3, 1987 (52 FR 28854), the Commission is changing the levels of gross annual carrier operating revenues which define the classes of motor carriers of passengers for accounting and reporting purposes. The Commission is also making operating revenues of motor carriers of passengers subject to Commission indexing procedures for classification purposes. The current $3 million Class I classification level will be increased to $5 million after applying the revenue deflator formula. The indexing medium is the All Commodities Producers Price Index (PPI). The PPI is published monthly by the Bureau of Labor Statistics. These changes will reduce the number of carriers subject to the accounting and reporting requirements ordered in Commission Docket No. 39953, *Elimination of Accounting and Reporting Requirements for Motor Carriers of Passengers*, decided May 12, 1987 (52 FR 20399).

DATE: The new classification levels are effective for the year beginning January 1, 1988, based on reports of operations for the year 1987 and prior years, after applying the revenue deflator formula.

FOR FURTHER INFORMATION CONTACT: William F. Moss, III, Chief, Section of Audit and Accounting, (202) 275-7510 [TDD for hearing impaired: (202) 275-1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area), (assistance for the hearing impaired is available through TDD-services (202) 275-1721, or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission Headquarters).

This action will not significantly affect either the quality of the human environment or energy conservation. This rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects

49 CFR Part 1206

Buses, Motor carriers, Uniform system of accounts, Administrative practice and procedure.

49 CFR Part 1249

Buses, Motor carriers, Reporting requirements, Administrative practice and procedure.

Decided: January 25, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Sterrett, Simmons, and Lamboley. Commissioner Lamboley concurred in the result. Commissioner Simons dissented.

Noreta R. McGee,

Secretary.

Parts 1206 and 1249 of Title 49 of the Code of Federal Regulations are amended as follows:

PART 1206—COMMON AND CONTRACT MOTOR CARRIERS OF PASSENGERS

1. In 49 CFR Part 1206, the authority citation continues to read as follows:

Authority: 49 U.S.C. 10321, 11142, and 11145; 5 U.S.C. 553.

2. In §1206.2, under **Instructions,** Instructions 2-1, *Classification of Carriers,* is revised to read as follows:

§ 1206.2 Uniform System of Accounts for common and contract motor carriers of passengers.

* * * * *

Instructions

2-1 Classification of carriers.

(a) For the purpose of accounting and reporting regulations, common and contract carriers of passengers subject to the Interstate Commerce Act are grouped into the following two classes:

Class I—Carriers having average annual gross transportation operating revenues (including interstate and intrastate) of $5 million or more from passenger motor carrier operations after applying the revenue deflator formula as shown in the Note.

Class II—Carriers having average annual gross transportation operating revenues (including interstate or intrastate) of less than $5 million from passenger motor carrier operations after applying the revenue deflator formula as shown in the Note.

(b)(1) The class to which any carrier belongs shall be determined by annual carrier operating revenues after applying the revenue deflator formula as shown in the Note. Upward and downward reclassification will be effected as of January 1 of the year immediately following the third consecutive year of revenue qualification.

(2) Any carrier which begins new operations (obtains operating authority not previously held) or extends its existing authority (obtains additional operating rights) shall be classified in accordance with a reasonable estimate of its annual carrier operating revenues after applying the revenue deflator formula shown in the Note.

(3) When a business combination occurs, such as a merger, reorganization, or consolidation, the surviving carrier shall be reclassified effective as of January 1 of the next calendar year on the basis of the combined revenues for the year when the combination occurred after applying the revenue deflator formula shown in the Note.

(4) Carriers shall notify the Commission of any change in classification or when their annual operating revenues exceed the Class I limit by writing to the Bureau of Accounts, Interstate Commerce Commission, Washington, DC 20423. In unusual circumstances where the classification regulations and reporting requirements will unduly burden the carrier, the carrier may request from the Commission a waiver from these regulations. This request shall be in writing specifying the conditions justifying the waiver. The Commission then shall notify carriers of any change in classification or reporting requirements.

(c) For classification purposes, the Commission shall publish in the **Federal Register** annually an index number which shall be used for adjusting gross annual operating revenues. The index number (deflator) is based on the Producer Price Index of Finished Goods and is used to eliminate the effects of inflation from the classification process.

Note.—Each carrier's operating revenues will be deflated annually using the Producers Price Index (PPI) of Finished Goods before comparing them with the dollar revenue limits prescribed in paragraph (a) of this section. The PPI is published monthly by the Bureau of Labor Statistics. The formula to be applied is as follows:

$$\text{Current year's annual operating revenues} \times \frac{\textit{1986 average PPI}}{\text{Current year's average PPI}} = \text{Adjusted annual operating revenues}$$

PART 1249—REPORTS OF MOTOR CARRIERS

3. In 49 CFR Part 1249, the authority citation continues to read as follows:

Authority: 49 U.S.C. 11142 and 11145; 5 U.S.C. 553.

4. Section 1249.3, is revised to read as follows:

§ 1249.3 Classification of carriers—motor carriers of passengers.

(a) Common and contract carriers of passengers subject to the Interstate Commerce Act are grouped into the following two classes:

Class I—Carriers having average annual gross transportation operating revenues (including interstate and intrastate) of $5 million or more from passenger motor carrier operations after applying the revenue deflator formula as shown in the Note.

Class II—Carriers having average annual gross transportation operating revenues (including interstate or intrastate) of less than $5 million from passenger motor carrier operations after applying the revenue deflator formula as shown in the Note.

(b) (1) The class to which any carrier belongs shall be determined by annual carrier operating revenues after applying the revenue deflator formula as shown in the Note. Upward and downward reclassification will be effected as of January 1 of the year immediately following the third consecutive year of revenue qualification.

(2) Any carrier which begins new operations (obtains operating authority not previously held) or extends its existing authority (obtains additional operating rights) shall be classified in accordance with a reasonable estimate of its annual carrier operating revenues after applying the revenue deflator formula shown in the Note.

(3) When a business combination occurs, such as a merger, reorganization, or consolidation, the surviving carrier shall be reclassified effective as of January 1 of the next calendar year on the basis of the combined revenues for the year when the combination occurred after applying the revenue deflator formula shown in the Note.

(4) Carriers shall notify the Commission of any change in classification or when their annual operating revenues exceed the Class I limit by writing to the Bureau of Accounts, Interstate Commerce Commission, Washington, DC 20423. In unusual circumstances where the classification regulations and reporting requirements will unduly burden the carrier, the carrier may request from the Commission a waiver from these regulations. This request shall be in writing specifying the conditions justifying the waiver. The Commission then shall notify carriers of any change in classification or reporting requirements.

(c) For classification purposes, the Commission shall publish in the **Federal Register** annually an index number which shall be used for adjusting gross annual operating revenues. The index number (deflator) is based on the Producer Price Index of Finished Goods and is used to eliminate the effects of inflation from the classification process.

Note.—Each carrier's operating revenues will be deflated annually using the Producers Price Index (PPI) of Finished Goods before comparing them with the dollar revenue limits prescribed in paragraph (a) of this section. The PPI is published monthly by the Bureau of Labor Statistics. The formula to be applied is as follows:

$$\text{Current year's annual operating revenues} \times \frac{\textit{1986 average PPI}}{\text{Current year's average PPI}} = \text{Adjusted annual operating revenues}$$

[FR Doc. 88-2886 Filed 2-10-88; 8:45 am]
BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 53, No. 28
Thursday, February 11, 1988

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

Federal Crop Insurance Corporation

7 CFR Part 456

[Doc. No. 4968S]

Macadamia Tree Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to add a new Part 456 in Chapter IV of Title 7, Code of Federal Regulations to be known as the Macadamia Tree Crop Insurance Regulations (7 CFR Part 456), effective for the 1988 and succeeding crop years. The intended effect of this rule is to: (1) Prescribe procedures for insuring macadamia trees in counties approved by the Board of Directors of FCIC; and (2) provide for codification of the Macadamia Tree Crop policy of insurance in 7 CFR Part 456 in the Code of Federal Regulations. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

COMMENT DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than (March 14, 1988), to be sure of consideration.

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

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

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

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

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

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

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

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

Background

On October 9, 1986, the Board of Directors of FCIC approved a resolution to authorize the introduction of crop insurance programs in the State of Hawaii for marketing by private insurance companies under an FCIC reinsurance agreement or an Agency Sales and Service Contract.

Hawaii is the only state without a crop insurance program and the Board, in authorizing the introduction of crop insurance protection to macadamia nut producers in the islands, is responding to a long standing interest in providing Hawaiian producers protection against loss of production from natural hazards.

On June 30, 1987, FCIC published a notice of proposed rulemaking in the **Federal Register** at 52 FR 24299, prescribing regulations for insuring macadamia nuts. The provisions contained herein, applicable to macadamia trees, completes the insurance plan for macadamia producers. Both programs will be available for the 1988 crop year.

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

List of Subjects in 7 CFR Part 456

Crop insurance; Macadamia trees.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to issue a new Part 456 in Chapter IV of Title 7, Code of Federal Regulations, to be known as 7 CFR Part 456—Macadamia Tree Crop Insurance Regulations, proposed to be effective for the 1988 and succeeding crop years, to read as follows:

PART 456—MACADAMIA TREE CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1988 and Succeeding Crop Years

Sec.

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

Subpart—Regulations for the 1988 and Succeeding Crop Years

§ 456.1 Availability of macadamia tree crop insurance.

(a) Insurance shall be offered under the provisions of this subpart on the insured crop in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended (The Act). The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. The insurance is offered through two methods. First, the Corporation offers the contract contained in this part directly to the insured through Agents of the Corporation. Those contracts are specifically identified as being offered by the Federal Crop Insurance Corporation. Second, companies reinsured by the Corporation offer contracts containing substantially the same terms and conditions as the contract set out in this part. No person may have in force more than one contract on the same crop for the crop year, whether insured by the Corporation or insured by a company which is reinsured by the Corporation. If a person has more than one contract under the Act outstanding on the same crop for the same crop year, all such contracts will be voided for that crop year but the person will still be liable for the premium on all contracts unless the person can show to the satisfaction of the Corporation that the multiple contract insurance was inadvertent and without the fault of the insured. If the multiple contract insurance is shown to be inadvertent and without the fault of the insured, the contract with the earliest application will be vaild and all other contracts on that crop for that crop year will be cancelled. No liability for indemnity or premium will attach to the contracts so cancelled. The person must repay all amounts received in violation of this section with interest at the rate contained in the contract for delinquent premiums.

(b) An insured whose contract with the Corporation or with a Company reinsured by the Corporation under the Act has been terminated because of violation of the terms of the contract is not eligible to obtain multi-peril crop insurance under the Act with the Corporation or with a company reinsured by the Corporation unless the insured can show that the default in the prior contract was cured prior to the sales closing date of the contract applied for or unless the insured can show that the termination was improper and should not result in subsequent ineligibility. All applicants for insurance under the Act must advise the agent, in writing, at the time of application, of any previous applications for a Contract under the Act and the present status of the applications or contracts.

§ 456.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for macadamia trees which will be included in the actuarial table on file in the applicable service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices set by the acturarial table for the crop year.

§ 456.3 OMB control numbers.

OMB control numbers are contained in Subpart H of Part 400, Title 7 CFR.

§ 456.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 456.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the macadamia tree insurance contract, whenever:

(a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation:

(1) Is indebted to the Corporation for additional premiums; or

(2) Has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and

(b) The Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds that: (1) An agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice; (2) said insured relied thereon in good faith; and (3) to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto. Requests for relief under this section must be submitted to the Corporation in writing.

§ 456.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation (or by a Company reinsured by the Corporation) of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the macadamia tree crop as provided in the policy. The contract shall consist of the application, the policy and the county actuarial table. This contract is not continuous. Application must be made annually for the macadamia tree contract on or prior to the sales closing date established by the actuarial table. The forms referred to in the contract are available at the applicable service offices.

§ 456.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation must be made by any person to cover such person's share in the macadamia tree crop as landlord, owner-operator, or tenant if the person wishes to participate in the program. The application shall be submitted to the Corporation (or the Company reinsured by the Corporation) at the service office on or before the applicable sales closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of any application or applications in any county upon its determination that the insurance risk is excessive. The Manager of the Corporation is authorized in any crop year to extend the sales closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the extended period. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) A contract in the form provided for in this subpart will be in effect as a macadamia tree contract applicable for one year. A new application must be submitted for each subsequent crop year.

(d) The application for the 1988 and succeeding crop years is found at Subpart D of Part 400—General

Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Macadamia Tree Crop Insurance Policy for the 1988 and succeeding crop years are as follows:

Macadamia Tree–Crop Insurance Policy

(This is not a continuous contract. Refer to Section 15)

Agreement to Insure: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. *Causes of loss.*

a. The insurance provided is against unavoidable damage to macadamia trees resulting from the following causes occurring within the insurance period:

(1) Fire;

(2) Volcanic Eruption;

(3) Wind;

Unless those causes are excepted, excluded, or limited by this policy or the actuarial table.

b. We will not insure against any loss due to:

(1) Fire, where weeds and other forms of undergrowth have not been controlled or tree pruning debris has not been removed from the grove.

(2) The neglect, mismanagement, or wrongdoing by you, any member of your household, your tenants, or employees;

(3) The failure to follow recognized good macadamia nut orchard practices;

(4) Any cause not specified in subsection 1.a. as an insured cause of loss.

2. *Crop, acreage, and share insured.*

a. The crop insured will be all macadamia trees grown for the production of macadamia nuts on insurable acreage which has been annually inspected and accepted by us and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year will be all macadamia tree acreage designated as insurable by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share is your share as landlord or owner-operator in the insured macadamia trees at the time insurance attaches. However, only for the purpose of determining the amount of indemnity, your insured share will not exceed your share at the time of loss.

d. We do not insure any macadamia trees:

(1) If the orchard maintenance practices carried out are not the same as those for which the guarantee and premium rate have been established;

(2) Of a type or variety not established as adapted to the area or excluded by the actuarial table;

(3) Interplanted with another crop;

(4) Which we consider not acceptable; or

(5) That are less than one year of age when the insurance period begins.

e. We may limit the insurable acreage to any acreage limitation, established under any Act of Congress, if we advise you of the limit prior to the date insurance attaches.

3. *Report of acreage, share, variety, and practice.*

You must report on our form by unit:

a. All the acreage of macadamia trees in the county in which you have a share;

b. Your share at the time insurance attaches;

c. The types of trees;

d. The number of trees set out;

e. The dates on which the trees were set out or grafted;

f. If more than 10 percent of the trees on any unit has been replaced in the previous five crop years, the date of replacement.

You must designate separately any acreage that is not insurable. This report must be submitted annually prior to the time insurance attaches. If insurance is provided for an irrigated practice, you must report as irrigated only the acreage for which you have adequate facilities and water, at the time insurance attaches, to carry out a good macadamia orchard irrigation practice. All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report within 15 days after the time insurance attaches, we may elect to determine, by unit, the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. *Amounts of insurance and coverage levels.*

a. The amounts of insurance and coverage levels are contained in the actuarial table.

b. If the number of trees is reduced more than 10 percent based on the original planting pattern, the amount of insurance will be reduced 1 percent for each percent reduction in excess of 10 percent.

5. *Annual premium.*

a. The annual premium is earned and payable on the date insurance attaches. The amount is computed by multiplying the amount of insurance per acre times the premium rate, times the insured acreage, times your share on the date insurance attaches.

b. Interest will accrue at the rate of one and one-fourth percent (1¼%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the premium billing date.

6. *Deductions for debt.*

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its agencies.

7. *Insurance period.*

Insurance attaches on insurable acreage for each crop year on January 1. However, if we accept your application for insurance after January 1, insurance does not attach until the tenth (10th) day after you sign and submit a properly completed application. Insurance will not attach to any acreage determined by us, after inspection, to be unacceptable. Insurance ends at the earlier of:

a. Total destruction of the macadamia trees; or

b. December 31 of the crop year.

8. *Notice of damage or loss.*

a. You must give us written notice without delay if damage resulting in probable loss occurs at any time during the insurance period. And include in such notice the dates and causes of damage.

b. If you are going to claim an indemnity on any unit, we must be allowed to inspect all insured trees before any pruning or tree removal.

c. We may reject any claim for indemnity if you fail to comply with any of the requirements of this section or Section 9.

9. *Claim for indemnity.*

a. Any claim for indemnity on a unit must be submitted to us on our form not later than sixty (60) days after the earlier of:

(1) Total destruction of the trees on the unit; or

(2) December 31 of the crop year.

b. We will not pay any indemnity unless you:

(1) Furnish all records we require concerning all trees on the unit;

(2) Show that any damage to the trees has been directly caused by one or more of the insured causes during the insurance period; and

(3) Furnish all information we require concerning the loss.

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

(1) Multiplying the insured acreage by the amount of insurance per acre;

(2) Multiplying this result by the applicable percent of loss determined by subtracting from the actual percent of damage determined by us the following applicable amount:

(a) 25 percent (for Coverage Level 3) and dividing the result by 75 percent;

(b) 35 percent (for Coverage Level 2) and dividing the result by 65 percent; or

(c) 50 percent (for Coverage Level 1) and dividing the result by 50 percent; and

(3) Multiplying this result by your share.

d. If the information reported by you under Section 3 of the policy results in a lower premium than the actual premium determined to be due, the amount of insurance on the unit will be computed on the information you reported, but all acreage of the insurable acreage planted, whether or not reported as insurable, will count against the amount of insurance.

e. The total amount of indemnity will include both trees damaged and trees destroyed due to an insurable cause.

(1) Any grove with over 80 percent actual damage will be determined to be 100 percent damaged.

(2) Any percentage of damage by uninsured causes will not be included in the actual percent of damage.

(3) If you elect to exclude fire as an insured cause of loss and the macadamia trees are damaged by fire, appraisals will be made in accordance with Form FCI–78–A, "Request to Exclude Hail and Fire."

f. You must not abandon any acreage to us.

g. Any suit against us for an indemnity must be brought in accordance with the provisions of 7 U.S.C. 1508(c). You must bring

suit within 12 months of the date notice of denial of the claim is received by you.

h. An indemnity will not be paid unless you comply with all policy provisions.

i. It is our policy to pay your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. However, we will pay simple interest computed on the net indemnity ultimately found to be due to you, if the reason for non-payment is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. Interest due will be paid from and including the 61st day after the date you sign, date, and submit to us the properly completed claim-for-indemnity form.

The interest rate will be that established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** semiannually on or about January 1, and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

j. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity will be paid to the persons determined to be beneficially entitled thereto.

k. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of the amount:

(1) Of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) By which the loss from fire exceeds the indemnity paid or payable under such other insurance.

For the purpose of this subsection, the amount of loss from fire will be the difference between the fair market value of the trees on the unit before the fire and after the fire.

10. *Concealment or fraud.*

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us, if at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. *Transfer of right to an indemnity-insured share.*

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. *Assignment of Indemnity.*

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. *Subrogation (Recovery of loss from a third party).*

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such right. If we pay for your loss, then your right of recovery will, at our option, belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. *Records and access to orchard.*

You must keep, for three years after the time of loss, records of the trees destroyed or damaged on each unit, including separate records showing the same information for any uninsured acreage. Failure to keep and maintain such records may, at our option, result in cancellation of the contract prior to the crop year to which the records apply or a determination that no indemnity is due. Any person designated by us will have access to such records and the orchard for purposes related to the contract.

15. *Life of contract.*

a. This contract will be in effect for the crop year specified on the application and may not be cancelled by you for such crop year.

b. The term of this contract begins and ends as shown in Section 7 of this policy. We are under no obligation to send you any renewal notice or other notice that the contract term is ending, and the receipt by you of any such notice is not a waiver of this provision.

c. This contract will not be renewed for any successive contract term if any amount due us on this or any other contract with you is not paid on or before the termination date. The date of payment of the amount due if deducted from:

(1) An indemnity, will be the date you sign the claim; or

(2) Payment under another program administered by the United States Department of Agriculture, will be the date both such other payment and setoff are approved.

d. The termination date is January 31 of the crop year insured. However, if we accept your application after December 31 for the first crop year insured, the termination date will be one year after insurance attaches.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. This contract will automatically terminate at the end of the current contract period, unless we offer to renew the contract for a subsequent crop year and you accept.

16. *Meaning of terms.*

For the purposes of macadamia tree crop insurance:

a. "Age" means the number of years after the later of when the trees have been set out or grafted. Age determination will be made for the unit on January 1 of each crop year.

b. "Actuarial table" means the forms and related material for the crop year approved by us. The actuarial table is available for public inspection in your service office and shows the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding macadamia tree insurance in the county.

c. "County" means the county shown on the application.

d. "Crop year" means the period beginning with the date insurance attaches and extending through December 31 of the same calendar year and will be designated by the calendar year in which insurance attaches.

e. "Destroyed" means damage to trees to the extent that we determine that replacement is required.

f. "Grafting" means to unite a macadamia tree shoot to an established macadamia tree root stock for future production of macadamia nuts.

g. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

h. "Insured" means the person who submitted the application accepted by us.

i. "Person" means an individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or a political subdivision, or agency of a state.

j. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

k. "Tenant" means a person who rents land from another person for a share of the macadamia nuts or a share of the proceeds therefrom.

l. "Unit" means all insurable acreage of macadamia trees in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) In which you are a joint owner.

Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

17. *Descriptive headings.*

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

18. *Determinations.*

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of, or appeal those determinations in accordance with the Appeal Regulations (7 CFR Part 400, Subpart J).

19. *Notices.*

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, DC, on February 4, 1988.

John Marshall,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 88-2980 Filed 2-10-88; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF JUSTICE

28 CFR Parts 0 and 71

[Order No. 1250-88]

Delegations Under the Program Fraud Civil Remedies Act of 1986

AGENCY: Office of the Attorney General, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Justice proposes rules to implement the Program Fraud Civil Remedies Act of 1986. With respect to actions initiated by the Department of Justice, the proposed rules establish administrative procedures for imposing the statutorily authorized civil penalties against any person who makes, submits, or presents a false, fictitious, or fraudulent claim or written statement to the Department. With respect to actions initiated by the other agencies, the proposed rules assign officials within the Department of Justice responsibilities regarding approval of agency requests to initiate actions, stays of agency proceedings at the request of the Department, and collection and compromise of liabilities imposed by the agencies.

DATES: Comments must be postmarked no later than March 14, 1988.

ADDRESSES: Comments regarding Part 71, Subpart A should be sent to Janis A. Sposato, General Counsel, Justice Management Division, United States Department of Justice, 10th Street and Constitution Avenue, NW., Room 6328, Washington, DC 20530. Comments regarding Part 71, Subpart B should be sent to Civil Division, P.O. Box 261, Ben Franklin Station Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Janis A. Sposato, General Counsel, Justice Management Division. Telephone: (202) 633-3452. (Part 71, Subpart A); Michael F. Hertz, Director, Commercial Litigation Branch, Civil Division, Department of Justice, Washington, DC 20530. Telephone: (202) 724-7179. (Part 71, Subpart B).

SUPPLEMENTARY INFORMATION: In October 1986, Congress enacted the Program Fraud Civil Remedies Act, Pub. L. 99-509, to establish a new administrative procedure as a remedy against those who knowingly make false claims or statements. The statue requires specified Federal agencies to follow certain procedures to recover penalties and assessments against persons who file false claims or statements. The statute provides for designated investigative and reviewing officials, an administrative hearing process, and an agency appeal procedure with limited judicial review. To facilitate the new process and promote uniformity in the Government, the President's Council on Intergrity and Efficiency distributed draft model regulations to its membership. In Subpart A of these proposed regulations, the Department of Justice, with minor variations, has adopted the model regulations set forth in the Council's final draft. In keeping with the statute's requirements, the agency's proposed regulations provide that the Counsel, Office of Professional Responsibility or a designee will act as the Investigating Official; the Associated Attorney General will serve as Reviewing Official; the General Counsel, Justice Management Division and bureau officials with similar responsibility will act for the Associate Attorney General in prosecuting claims; an administrative law judge will be the presiding official; and the Deputy Attorney General or his designee will act as Authority Head on appeals. The new administrative process should enhance the Department's ability to deter fraud in those cases where the costs of litigation in the past have exceeded the amount of recovery, thus making it uneconomical to pursue such claims. The statute provides for a jurisdictional limit of $150,000.00 and a maximum penalty of $5,000.00 for each false claim or statement. The proposed regulations should provide the Department with an effective remedy against a person alleged to have submitted false claims or statements while providing due process to that person.

In Subpart B of these proposed regulations, the Assistant Attorney General, Civil Division, has been assigned the responsibility for the approval and disapproval of requests by other agencies to initiate administrative actions under the Program Fraud Civil Remedies Act of 1986. The proposed regulations also designate the Assistant Attorneys General for the litigating divisions (Antitrust, Civil, Civil Rights, Criminal, Land and Natural Resources, and Tax) to make the determinations called for by the Act in connection with a proceeding conducted by another agency when such proceeding may adversely affect pending or potential criminal or civil action under the responsibility of the litigating division. Finally, they designate the Assistant Attorney General, Civil Division, as the official responsible for decisions to initiate civil actions to collect or enforce any civil penalty or assessment imposed by an agency under the Act, and to defend in litigation and/or to settle or compromise such liabilities at any time subsequent to the filing of a petition for judicial review by the person upon whom the liability was imposed.

Under the terms of the Act, these designations may not be further delegated below the level of the Assistant Attorney General; they may, of course, be made by persons acting as Assistant Attorney General during the absence of the incumbent or while the position is vacant. Similarly, while the decision to initiate or compromise a collection action is reserved to the Assistant Attorney General for the Civil Division, the conduct of such litigation and negotiation of settlement proposals shall be handled by Division attorneys or Assistant United States Attorneys subject to the Assistant Attorney General's supervision.

These proposed rules do not constitute "major rules" within the meaning of Executive Order 12291, section 1(a). Nor do the requirements of the Regulatory Flexibility Act, 5 U.S.C. 605(b), apply. These proposed rules contain no information collection or recordkeeping requirements as defined by the Paperwork Reduction Act of 1978, and fall within the exceptions to coverage.

List of Subjects

28 CFR Part 0

Claims, Fraud, Organization and function (government agencies).

28 CFR Part 71

Claims, Fraud, Organization and function (government agencies), Penalties.

By virtue of the authority vested in me as Attorney General by 5 U.S.C. 301 and

28 U.S.C. 509 and 510, I propose to amend Title 28 of the Code of Federal Regulations as follows:

PART 0—[AMENDED]

1. The authority citation for Part 0 continues to read as follows:

Authority: 5 U.S.C. 301, 2303; 8 U.S.C. 1103, 1427(g); 15 U.S.C. 644(k); 18 U.S.C. 2254, 4001, 4041, 4042, 4044, 4082, 4201 *et seq.*, 6003(b); 21 U.S.C. 871, 881(d), 904; 22 U.S.C. 263a, 1621–1645o, 1622 note; 28 U.S.C. 509, 510, 515, 524, 542, 543, 552, 552a, 569; 31 U.S.C. 1108, 3801 *et seq.*; 50 U.S.C. App. 2001–2017p; Pub. L. 91–513, sec. 501; EO 11919; EO 11267; EO 11300.

§ 0.45 [Amended]

2. Section 0.45, paragraph (d) is proposed to be amended by inserting, "the Program Fraud Civil Remedies Act of 1986," in the present text directly following the words "False Claims Act."

3. Part 71 is proposed to be added to read as follows:

PART 71—IMPLEMENTATION OF THE PROVISIONS OF THE PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

Subpart A—Implementation for Actions Initiated by the Department of Justice

Sec.

Subpart B—Assignment of Responsibilities Regarding Actions by Other Agencies

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510; 31 U.S.C. 3801–3812.

Subpart A—Implementation for Actions Initiated by the Department of Justice

§ 71.1 Purpose.

This subpart implements the Program Fraud Civil Remedies Act of 1986, Pub. L. 99–509, 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 the provisions of the statute. This subpart (a) establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to authorities or to their agents, and (b) specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments.

§ 71.2 Definitions.

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

Authority means the United States Department of Justice, including all offices, boards, divisions and bureaus.

Authority head means the Attorney General or his designee. For purposes of these regulations, the Deputy Attorney General is designated to act on behalf of the Attorney General.

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

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

(1) For property or services if the United States

(i) Provided such property or services;

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

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

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

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

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

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

Complaint means the administrative complaint served by the reviewing official on the defendant under § 71.7.

Defendant means any person alleged in a complaint under § 71.7 to be liable for a civil penalty or assessment under § 71.3.

Government means the United Stated Government.

Individual means a natural person.

Initial decision means the written decision of the ALJ required by § 71.10 or § 71.37, and includes a revised initial decision issued following a remand or a motion for reconsideration.

Investigating Official means the Counsel, Office of Professional Responsibility (OPR) of the Department of Justice. The Counsel, OPR, may delegate his responsibility with respect to investigations in a bureau to an appropriate bureau official, providing that such official 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. (Actual investigations may be performed by individuals reporting to the investigating official or his designee, who shall retain investigative responsibility.)

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 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 in good standing of the bar of any State, Territory, or possession of the United States or of the District of Columbia or the Commonwealth of Puerto Rico.

Reviewing official means the Associate Attorney General. For purposes of section § 71.5 of these rules, the Associate Attorney General, personally or through his immediate staff, shall perform the functions of the reviewing official provided that such person 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. All other functions of the reviewing official, including administrative prosecution under these rules, shall be performed with respect to the components listed below by the individuals listed below acting on behalf of the Associate Attorney General:

(a) For the offices, boards, divisions and any other components not covered below, the General Counsel, Justice Management Division;

(b) For the Bureau of Prisons (BOP), the General Counsel, BOP;

(c) For the Drug Enforcement Administration (DEA), the Chief Counsel, DEA;

(d) For the Federal Bureau of Investigation (FBI), the Assistant Director, Legal Counsel Division;

(e) For the Immigration and Naturalization Service (INS), the General Counsel, INS; and

(f) For the United States Marshals Service (USMS), the Associate Director for Administration.

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

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

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

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

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

§ 71.3 Basis for civil penalties and assessments.

(a) Any person who makes a claim that the person knows or has reason to know:

(1) Is false, fictitious, or fraudulent;

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

(3) Includes, or is supported by, any written statement that

(i) Omits a material fact;

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

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

(4) 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.

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

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

(d) 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.

(e) 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.

(f) Any person who makes a written statement that

(1) The person knows or has reason to know

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

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

(2) 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 that may be prescribed by law, to a civil penalty of not more than $5,000 for each such statement.

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

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

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

(j) 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.

(k) In any case in which is it 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.

§ 71.4 Investigation.

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

(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 or 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

(i) The documents sought have been produced;

(ii) Such documents are not available and the reasons therefor; or

(iii) 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 is this section shall preclude or limit an investigating official's discretion to refer allegations within 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 appropriate component of the Department.

§ 71.5 Review by the reviewing official.

(a) If, based on the report of the investigating official under § 71.4(b), the reviewing official determines that there is adequate evidence to believe that a person is liable under § 71.3, the reviewing official shall transmit to the Assistant Attorney General, Civil Division, a written notice of the reviewing official's intention to have a complaint issued under § 71.7. Such notice shall include:

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

(2) A statement specifying the evidence that support 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 § 71.3 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

§ 71.6 Prerequisites for issuing a complaint.

(a) The reviewing official may issue a complaint under § 71.7 only if:

(1) The Assistant Attorney General, Civil Division, 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 § 71.3(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 § 71.3(a) does not exceed $150,000.

(b) For the purpose 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.

§ 71.7 Complaint.

(a) On or after the date the Assistant Attorney General, Civil Division, 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 § 71.8.

(b) The complaint shall state the following:

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

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

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

(4) The fact 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 § 71.10.

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

§ 71.8 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 acknowledgement of receipt by the defendant or his or her representative.

§ 71.9 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 § 71.11. 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.

§ 71.10 Default upon failure to file an answer.

(a) If the defendant does not file an answer within the time prescribed in § 71.9(a), the reviewing official may refer the complaint to the ALJ.

(b) Upon the referral of the complaint, the ALJ shall promptly serve on the defendant in the manner prescribed in § 71.8, a notice that an initial decision will be issued under the section.

(c) The ALJ shall assume the facts alleged in the complaint to be true and, if such facts establish liability under § 71.3, 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 a defendant's motion under paragraph (e) of this section is not subject to reconsideration under § 71.38.

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

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

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

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

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

§ 71.11 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.

§ 71.12 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 § 71.8. At the same time, the ALJ shall send a copy of such notice to the reviewing official or his designee.

(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.

§ 71.13 Parties of the hearing.

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

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

§ 71.14 Separation of functions.

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

(1) Participate in the hearing as the ALJ;

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

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

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

§ 71.15 Exparte 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.

§ 71.16 Disqualification of reviewing official or ALJ.

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

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

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

(d) Such affidavit shall state specific facts that support the party's 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 this section.

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

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

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

§ 71.17 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.

§ 71.18 Authority of the ALJ.

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

(b) The ALJ has the authority to

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

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

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

(4) Administer oaths and affirmations;

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

(6) Rule on motions and other procedural matters;

(7) Regulate the scope and timing of discovery;

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

(9) Examine witnesses;

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

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

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

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

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

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

§ 71.19 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 may issue an order containing all matters agreed upon by the parties or ordered by the ALJ at a prehearing conference.

§ 71.20 Disclosure of documents.

(a) Upon written request to the reviewing official, the defendant may review any relevant and material documents, transcripts, records, and other materials that relate to the allegations set out in the complaint and upon which the findings and conclusions of the investigating official under § 71.4(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 Assistant Attorney General, Civil Division, from the reviewing official as described in § 71.5 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 § 71.9.

§ 71.21 Discovery.

(a) The following types of discovery are authorized:

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

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

(3) Written interrogatories; and

(4) Depositions.

(b) For the purpose of this section and § 71.22 and § 71.23, 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 are to be handled according to the following procedures:

(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 § 71.24.

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

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

(ii) Is not unduly costly or burdensome;

(iii) Will not unduly delay the proceeding; and

(iv) Does not seek privileged information.

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

(5) The ALJ may grant discovery subject to a protective order under § 71.24.

(e) Depositions are to be handled in the following manner:

(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 § 71.8.

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

(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.

§ 71.22 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 any written statements that the party intends to offer in lieu of live testimony in accordance with § 71.33(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 may 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.

§ 71.23 Subpoenas for attendance at hearing.

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

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

(c) A party seeking a subpoena shall file a written request therefor not less than 15 days before the date fixed for the hearing unless otherwise allowed by the ALJ upon a showing of good cause. 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 § 71.8. A subpoena on a party or upon an individual under the control of a party may be served by first class mail.

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

§ 71.24 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 the subject of inquiry, or that the scope of discovery be limited to certain matters;

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

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

(7) That a sealed deposition be opened only be 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.

§ 71.25 Fees.

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

§ 71.26 Form, filing and service of papers.

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

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

(c) *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 § 71.8 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.

(d) *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.

§ 71.27 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.

§ 71.28 Motions.

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

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

may require that oral motions be reduced to writing.

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

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

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

§ 71.29 Sanctions.

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

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

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

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

(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 part 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.

§ 71.30 The hearing and burden of proof

(a) The ALJ shall conduct a hearing on the record in order to determined whether the defendant is liable for a civil penalty or assessment under § 71.30 and is if so, the appropriate amount of any such civil penalty or assessment considering any aggravating or mitigating factors.

(b) The authority 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 closed by the ALJ for good cause shown.

§ 71.31 Determining the amount of penalties and assessments.

(a) In determining an appropriate amount of civil penalties and assessments, the ALJ and the authority head, 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, double damages and a significant civil penalty ordinarily should be imposed.

(b) Although not exhaustive, the following factors are among those that may influence the ALJ and the authority head in determining the amount of penalties and assessments to impose with respect to the misconduct (i.e., the false, fictitous, 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 public confidence in the management of Government programs and operations;

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

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

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

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

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

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

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

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

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

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

§ 71.32 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.

§ 71.33 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 § 71.22(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 the following:

(1) A party who is an individual;

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

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

§ 71.34 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 § 71.24.

§ 71.35 The record.

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

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

(c) The record may be inspected and copied (upon payment of a reasonable fee) by anyone, unless otherwise ordered by the ALJ pursuant to § 71.24.

§ 71.36 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 such briefs, not to exceed 60 days from the date the parties receive the transcript of the hearing or, if applicable, the stipulated record. Such briefs may be accompanied by proposed findings of fact and conclusions of law. The ALJ may permit the parties to file reply briefs.

§ 71.37 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 amoaunt of any penalties and assessments imposed.

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

(1) Whether the claims or statements identified in the complaint, or any portions thereof, violate § 71.3; and

(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 § 71.31.

(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 authority head. If the ALJ fails to meet the deadline contained in this paragraph, he or she shall notify the parties of the reason for the delay and shall set a new deadline.

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

§ 71.38 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 authority head and shall be final and binding on all parties 30 days after the ALJ denies the motion, unless the initial decision is timely appealed to the authority head in accordance with § 71.39.

(g) If the ALJ issues a revised initial decision, that decision shall constitute the final decision of the authority head and shall be final and binding on the parties 30 days after it is issued, unless it is timely appealed to the authority head in accordance with § 71.39.

§ 71.39 Appeal to authority head.

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

notice of appeal with the authority head in accordance with this section.

(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 § 71.38, 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 authority head may extend the initial 30 day period for an additional 30 days if the defendant files with the authority head a request for an extension within the initial 30 days period and shows good cause.

(b) If the defendant files a timely notice of appeal with the authority head and the time for filing motions for reconsideration under § 71.38 has expired, the ALJ shall forward the record of the proceeding to the authority head.

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

(d) 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.

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

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

(g) In reviewing the initial decision, the authority head shall not consider any objection that was not raised before the ALJ unless the objecting party can demonstrate extraordinary circumstances causing the failure to raise the objection.

(h) If any party demonstrates to the satisfaction of the authority head 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 authority head shall remand the matter to the ALJ for consideration of such additional evidence.

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

(j) The authority head shall promptly serve each party to the appeal with a copy of the decision of the authority head and a statement describing the right of any person determined to be liable for a penalty or assessment to seek judicial review.

(k) 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 authority head serves the defendant with a copy of the authority head's decision, a determination that a defendant is liable under § 71.3 is final and is not subject to judicial review.

§ 71.40 Stays ordered by the Department of Justice.

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

§ 71.41 Stay pending appeal.

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

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

§ 71.42 Judicial review.

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

§ 71.43 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.

§ 71.44 Right to administrative offset.

The amount of any penalty or assessment which has become final, or for which a judgment has been entered under § 71.42 or § 71.43, or any amount agreed upon in a compromise or settlement under § 71.46, may be collected by administrative offset under 31 U.S.C. 3716, except that an administrative offset may not be made under this subsection against a refund of an overpayment of Federal taxes, then or later owing by the United States to the defendant.

§ 71.45 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).

§ 71.46 Compromise or settlement.

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

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

(c) The authority head has exclusive authority to compromise or settle a case under this part at any time after the date on which the ALJ issues an initial decision, except during the pendency of any review under § 71.42 or during the pendency of any action to collect penalties and assessments under § 71.43.

(d) The Attorney General has exclusive authority to compromise or settle a case under this part during the pendency of any review under § 71.42 or of any action to recover penalties and assessments under 31 U.S.C. 3806.

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

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

§ 71.I47 Limitations.

(a) The notice of hearing with respect to a claim or statement must be served in the manner specified in § 71.8 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 § 71.10(b) shall be deemed a notice of hearing for purposes of this section.

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

§ 71.48–71.50 [Reserved]

Subpart B—Assignment of Responsibilities Regarding Actions by Other Agencies

§ 71.51 Purpose.

This subpart further implements the Program Fraud Civil Remedies Act of

1986. The Act authorizes the Attorney General, or certain officials whom the Attorney General may designate, to make determinations or otherwise act with respect to another agency's exercise of the provisions of the Program Fraud Civil Remedies Act. See, *e.g.*, 31 U.S.C. 3803(a)(2), 3803(b), 3085. This subpart designates officials within the Department of Justice who are authorized to exercise the authorities conferred upon the Attorney General by the Program Fraud Civil Remedies Act with respect to cases brought or proposed to be brought under it.

§ 71.52 Approval of Agency Requests to Initiate a Proceeding.

(a) The Assistant Attorney General of the Civil Division is authorized to act on notices by an agency submitted to the Department of Justice pursuant to 31 U.S.C. 3803(a)(2) and, pursuant to the provisions of section 3803(b), to approve or disapprove the referral to an agency's presiding officer of the allegations of liability stated in such notice.

(b) The Assistant Attorney General of the Civil Division may

(1) Require additional information prior to acting as set forth above, in which case the 90 day period shall be extended by the time necessary to obtain such additional information; and

(2) Impose limitations and conditions upon such approval or disapproval as may be warranted in his or her judgment.

§ 71.53 Stays of agency proceedings at the request of the Department.

With respect to matters assigned to their divisions, the Assistant Attorneys General of the litigating divisions are authorized to determine that the continuation of any hearing under 31 U.S.C. 3803(b)(3) with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to such claim or statement, and to so notify the authority head of this determination and thereafter to determine when such hearing may resume.

§ 71.54 Collection and compromise of liabilities imposed by agency.

The Assistant Attorney General of the Civil Division is authorized to initiate actions to collect assessments and civil penalties imposed under the Program Fraud Civil Remedies Act of 1986, and, subsequent to the filing of a petition for judicial review pursuant to section 3805 of the Act, to defend such actions and/or to approve settlements and compromises of such liability.

Dated: February 4, 1988.

Edwin Meese III,

Attorney General.

[FR Doc. 88-2816 Filed 2-10-88; 8:45 am]

BILLING CODE 4410-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL-3327-3]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Nonconformance Penalties for Heavy-Duty Engines and Heavy-Duty Vehicles, Including Light-Duty Trucks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Hearing cancellation.

SUMMARY: On January 21, 1988 [53 FR 1716] EPA published a notice of proposed rulemaking which proposed to revise the regulation codified in Subpart L of 40 CFR Part 86, that makes nonconformance penalties (NCPs) available for specific Federal emission standards, to include a provision which would waive payment of penalties to EPA for those heavy-duty vehicles and engines which are certified under the Federal NCP process and entered into commerce in the State of California under a California NCP program. EPA proposed to waive the amount due under 40 CFR 86.1113(g) provided the identical nonconformance penalty is paid to the State of California.

EPA scheduled a public hearing to be held on this notice on February 23, 1988 in San Diego, California. EPA specified that any person desiring to testify at the hearing must notify EPA by February 3, 1988, and that in the event no requests to testify were received, the hearing would be cancelled. Since no one has notified EPA that they desire to testify at the hearing, the hearing is hereby cancelled.

DATES: *Public comment:* All comments on the notice of proposed rulemaking published January 21, 1988 [53 FR 1716] should be received by March 1, 1988. The comment period has been extended to allow individuals who planned to provide comments after hearing additional time to provide comments in view of the fact that the hearing has been cancelled. Comments should be submitted to the Public Docket Number A-87-14 at the address provided below.

ADDRESS: Copies of materials relevant to this rulemaking are contained in and written comments should be submitted to Public Docket Number A-87-14, Central Docket Section, U.S. Environmental Protection Agency, Room 4, South Conference Center (LE-132), Waterside Mall, 401 M Street SW., Washington, DC. 20460. The docket may be inspected between 8:00 a.m. and 3:00 p.m. on weekdays. As provided in 40 CFR Part 2, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Tesoriero or Mr. Anthony Erb, Manufacturers Operations Division (EN-340F), Office of Mobile Sources, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Telephone: (202) 382-2487 or (202) 382-2536, respectively.

Dated: February 5, 1988.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 88-2917 Filed 2-10-88; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF DEFENSE

48 CFR Parts 225 and 252

Department of Defense Federal Acquisition Regulation Supplement; Restriction on Procurement From Toshiba Corporation and From Kongsberg Vapenfabrikk

AGENCY: Department of Defense.

ACTION: Proposed rule and request for comment.

SUMMARY: The Department of Defense intends to modify Subpart 225.70 of the DoD FAR Supplement to comply with section 8124 of the DoD FY 88 Appropriations Act, Pub. L. 100-202. Section 8124 of the Act prohibits acquisitions of goods and services from Toshiba Corporation and Kongsberg Vapenfabrikk and their subsidiaries.

DATE: Comments on the proposed revision should be submitted in writing to the Executive Secretary, DAR Council, at the address shown below, on or before February 26, 1988. Please cite DAR Case 87-322 in all correspondence related to this issue.

ADDRESS: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Mr. Charles W. Lloyd, Executive Secretary, ODASD(P)/DARS, c/o OUSD(A) (M&RS), Room 3D139, The Pentagon, Washington, DC 20301-3062.

FOR FURTHER INFORMATION CONTACT: CAPT James Jaudon, SC, USN, Director, International Acquisition, DASD(P) (IA), (202) 697-9351.

SUPPLEMENTARY INFORMATION:

A. Background

The Department of Defense is implementing section 8124 of the FY 88 DoD Appropriations Act, Pub. L. 100–202, which prohibits acquisitions from Toshiba Corporation and Kongsberg Vapenfabrikk and their subsidiaries. To assist the Department of Defense in implementing section 8124 of Pub. L. 100–202, the DoD has decided to solicit public comments on an expedited basis for consideration in developing an interim rule. Comments must be submitted in writing on or before 15 days after the date of publication of this proposed rule. Further, public comments on the interim rule, which shall be effective on March 21, 1988, as required by section 8124, shall be solicited in accordance with customary procedures.

B. Regulatory Flexibility Act Information

Implementation of the proposed rule may have an effect on small entities performing under DoD contracts. However, information currently available is insufficient to permit a determination as to the extent of such impact. A determination in this regard will be made at a later date. Comments are hereby solicited. Comments from small entities concerning these changes will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite DAR Case 88–610D in all correspondence.

C. Paperwork Reduction Act Information

The proposed coverage does not contain new information collection requirements which require the approval of OMB under 44 U.S.C. 3501 *et seq.*

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Therefore, it is proposed to amend 48 CFR Parts 225 and 252 as follows:

1. The authority for 48 CFR Parts 225 and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 225—FOREIGN ACQUISITION

2. Section 225.7011 is added to read as follows:

225.7011 Restriction on procurement from Toshiba Corporation or from Kongsberg Vapenfabrikk.

(a) Section 8124 of the Department of Defense Appropriations Act, 1988 (Pub. L. 100–202) provides in part that none of the funds available to the Department of Defense are available for obligation or expenditure to procure either directly or indirectly any goods or services from Toshiba Corporation or any of its subsidiaries or from Kongsberg Vapenfabrikk or any of its subsidiaries.

(1) For as long as this restriction or any similar restriction in a subsequent act is in effect, no contracts shall be awarded to Toshiba Corporation or any of its subsidiaries or to Kongsberg Vapenfabrikk or any of its subsidiaries, unless a waiver has been granted as described below. No contracts shall be awarded to other firms for goods or services of Toshiba Corporation or any of its subsidiaries or of Kongsberg Vapenfabrikk or any of its subsidiaries unless a waiver has been granted as described below. In order to ensure that components of the Department of Defense do not procure indirectly goods or services of Toshiba Corporation, Kongsberg Vapenfabrikk or their respective subsidiaries, solicitations shall require offerors to identify the goods or services of Toshiba Corporation or Kongsberg Vapenfabrikk or their respective subsidiaries that the offeror would deliver under the contract.

(2) An item of personal property specified as an item to be delivered under the contract shall be considered to be goods of Toshiba Corporation or of Kongsberg Vapenfabrikk, or their respective subsidiaries, if such item contains components or materials produced or manufactured by Toshiba Corporation, Kongsberg Vapenfabrikk, or their respective subsidiaries and such components or materials produced or manufactured by Toshiba Corporation, Kongsberg Vapenfabrikk, or their respective subsidiaries have *not* been substantially transformed into a new and different article or have not been merged into a new and different article; provided that, notwithstanding such transformation or merger, the item shall be considered to be goods of Toshiba Corporation, or of Kongsberg Vapenfabrikk, or of their respective subsidiaries if the cost of the components or materials produced or manufactured by Toshiba Corporation, Kongsberg Vapenfabrikk, or their respective subsidiaries exceeds 50 percent of the cost of all its components.

(3) Services shall be considered services of Toshiba Corporation, Kongsberg Vapenfabrikk, or their respective subsidiaries if they are performed by an employee of Toshiba Corporation, Kongsberg Vapenfabrikk, or their respective subsidiaries.

(b) *Waiver.* (1) Section 8124 permits the Secretary of Defense, on a case-by-case basis, to waive the prohibition imposed by section 8124 if the Secretary determines, in writing, that compliance with the prohibition would be detrimental to national security interests of the United States. Any such determination must be sent to the Committees on Appropriations of the Senate and the House of Representatives. The Secretary of Defense has delegated this authority to the Secretaries of the Military Departments, with authority to redelegate to a level not below the level of Assistant Secretary and to the Deputy Assistant Secretary of Defense (Procurement) for procurements by defense agencies.

(2) Case-by-case determinations with respect to replacement parts or maintenance services for equipment owned or leased by the Department may cover all similar replacement parts or maintenance services estimated to be purchased during the year for the equipment.

(c) *Provision and clause.* The solicitation provision set forth in section 252.225–7023 shall be included in all solicitations. The contract clause set forth in 252.225–7024 shall be included in all contracts awarded on or after March 21, 1988.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Sections 252.225–7023 and 252.225–7024 are added to read as follows:

252.225–7023 Restriction on contracting with Toshiba Corporation and Kongsberg Vapenfabrikk—solicitation provision.

As prescribed in DFARS 225.7011(c) insert the following provision:

NOTICE OF RESTRICTION ON CONTRACTING WITH TOSHIBA CORPORATION OR KONGSBERG VAPENFABRIKK—OFFERORS REPRESENTATION (DATE)

(a) Offerors are advised that the Department of Defense may not procure either directly or indirectly any goods or services from Toshiba Corporation or any of its subsidiaries or Kongsberg Vapenfabrikk or any of its subsidiaries. Offers from Toshiba Corporation or any of its subsidiaries or from Kongsberg Vapenfabrikk or any of its subsidiaries shall be rejected unless a determination is made in accordance with law permitting such a procurement. Offers from offerors, other than Toshiba Corporation, Kongsberg Vapenfabrikk, or

their respective subsidiaries, of goods or services of Toshiba Corporation, Kongsberg Vapenfabrikk, or their respective subsidiaries shall be rejected unless a determination is made in accordance with law permitting such a procurement.

(b) Definitions for purposes of this clause.

(1) Goods of Toshiba Corporation or any of its subsidiaries are any item of personal property specified in the schedule of this contract as an item to be delivered if such item contains components or materials produced or manufactured by Toshiba Corporation or any of its subsidiaries and such components or materials produced or manufactured by Toshiba Corporation or any of its subsidiaries have *not* been substantially transformed into a new and different article or have not been merged into a new and different article; provided that, notwithstanding such transformation or merger, the item shall be considered to be goods of Toshiba Corporation or any of its subsidiaries if the cost of the components or materials produced or manufactured by Toshiba Corporation or any of its subsidiaries exceeds 50 percent of the cost of all its components.

(2) Goods of Kongsberg Vapenfabrikk or any of its subsidiaries are any item of personal property specified in the schedule of this contract as an item to be delivered if such item contains components or materials produced or manufactured by Kongsberg Vapenfabrikk or any of its subsidiaries and such components or materials produced or manufactured by Kongsberg Vapenfabrikk or any of its subsidiaries have *not* been substantially transformed into a new and different article or have not been merged into a new and different article; provided that, notwithstanding such transformation or merger, the item shall be considered to be goods of Kongsberg Vapenfabrikk or any of its subsidiaries if the cost of the components or materials produced or manufactured by Kongsberg Vapenfabrikk or any of its subsidiaries exceeds 50 percent of the cost of all its components.

(3) Services of Toshiba Corporation are any service specified in the schedule of this contract as an item to be delivered that is performed by any employee of the Toshiba Corporation or any of its subsidiaries.

(4) Services of Kongsberg Vapenfabrikk are any service specified in the schedule of this contract as an item to be delivered that is performed by any employee of the Kongsberg Vapenfabrikk or any of its subsidiaries.

(c) The offeror hereby represents that if awarded the contract it will not provide any goods and services of Toshiba Corporation, Kongsberg Vapenfabrikk, or any of their respective subsidiaries other than those listed below:

[list]

(End of provision)

252.225-7024 Restriction on contracting with Toshiba Corporation and Kongsberg Vapenfabrikk—contract clause.

As prescribed in DFARS 225.7011(c) insert the following clause.

RESTRICTION ON CONTRACTING WITH TOSHIBA CORPORATION OR KONGSBERG VAPENFABRIKK (DATE)

(a) The contractor agrees that no goods or services delivered to the government under this contract will be goods or services of either (1) Toshiba Corporation or any of its subsidiaries or (2) Kongsberg Vapenfabrikk or any of its subsidiaries.

(b) Definitions for purposes of this clause:

(1) Goods of Toshiba Corporation or any of its subsidiaries are any item of personal property specified in the schedule of this contract as an item to be delivered if such item contains components or materials produced or manufactured by Toshiba Corporation or any of its subsidiaries and such components or materials produced or manufactured by Toshiba Corporation or any of its subsidiaries have *not* been substantially transformed into a new and different article or have not been merged into a new and different article; provided that, notwithstanding such transformation or merger, the item shall be considered to be goods of Toshiba Corporation or any of its subsidiaries if the cost of the components or materials produced or manufactured by Toshiba Corporation or any of its subsidiaries exceeds 50 percent of the cost of all its components.

(2) Goods of Kongsberg Vapenfabrikk or any of subsidiaries are any item of personal property specified in the schedule of this contract as an item to be delivered if such item contains components or materials produced or manufactured by Kongsberg Vapenfabrikk or any of its subsidiaries and such components or materials produced or manufactured by Kongsberg Vapenfabrikk or any of its subsidiaries have *not* been substantially transformed into a new and different article or have not been merged into a new and different article; provided that, notwithstanding such transformation or merger, the item shall be considered to be goods of Kongsberg Vapenfabrikk or any of its subsidiaries if the cost of the components or materials produced or manufactured Kongsberg Vapenfabrikk or any of its subsidiaries exceeds 50 percent of the cost of all its components.

(3) Services of Toshiba Corporation are any service specified in the schedule of this contract as an item to be delivered that is performed by any employee of the Toshiba Corporation or any of its subsidiaries.

(4) Services of Kongsberg Vapenfabrikk are any service specified in the schedule of this contract as an item to be delivered that is performed by any employee of Kongsberg Vapenfabrikk or any of its subsidiaries.

(End of clause)

[FR Doc. 88-2933 Filed 2-10-88; 8:45 am]
BILLING CODE 3810-01-M

Notices

Federal Register
Vol. 53, No. 28
Thursday, February 11, 1988

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[Doc. No. 4973S]

Privacy Act; System of Records

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of revision of Privacy Act System of Records.

SUMMARY: Notice is hereby given that the United States Department of Agriculture (USDA) is revising one of its Systems of Records maintained by the Federal Crop Insurance Corporation (FCIC), titled "USDA/FCIC–1–Accounts Receivable, USDA/FCIC." This action is necessary in order to refer information regarding indebtedness to the United States Postal Service for use in a computer match to assist in collection of debts by salary offset as provided by the Debt Collection Act of 1982 (Pub. L. 97–365).

Implementation of the salary offset initiative is essential for effective Federal debt collection and the integrity of Federal programs. This notice is intended to provide FCIC with the means for effective money management and debt collection by amending the appropriate sections of the system notice.

DATES: This notice will be adopted without further publication in the **Federal Register** unless modified by a subsequent notice to incorporate comments received from the public. Comments must be received by the contact person listed below on or before March 14, 1988, to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Ralph F. Satterfield, Federal Crop Insurance Corporation, Room 4606, South Building, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 382–9714.

SUPPLEMENTARY INFORMATION: The purpose of this revision is to amend the routine uses contained in USDA/FCIC–1–Accounts Receivable, to provide for referral of information to the United States Postal Service for use in computer matches to assist in collection of indebtedness by salary offset.

FCIC, along with other Federal agencies, plans to participate in a computer matching program utilizing the system of records entitled "USDA/FCIC–1–Accounts Receivable, USDA/FCIC." Information from this system will be computer matched against Federal agency payroll files to identify delinquent debtors who are current or former Federal employees.

The Debt Collection Act authorizes an offset of a Federal employee's salary to satisfy debts owed to the Government. The computer match to be conducted by the United States Postal Service will assist FCIC in collecting debts owed to it by Federal employees. The proposed routine use is compatible with the purpose of USDA/FCIC–1 to maintain information on individuals indebted to FCIC to ensure efficient collection of those debts.

In accordance with requirements of the Debt Collection Act, the creditor agency, FCIC, USDA, will notify the debtor of his/her due process rights with respect to the debt and give the individual the opportunity to resolve the claim through repayment of the debt on an installment basis before salary offset is initiated.

The computer matches will be conducted in accordance with OMB's revised Supplemental Guidelines for Conducting Computer Matching Programs (47 FR 21656, May 19, 1982). The USDA has signed an agreement with the matching agency requiring that the information disclosed by USDA under this computer matching program be used only for making computer matches and compiling statistical data about the results of any match. The parties have agreed to safeguard the information provided from unauthorized disclosure.

Minor stylistic and editorial changes have also been made.

Accordingly, notice is hereby given that USDA amends its System of Records maintained by the Federal Crop Insurance Corporation (FCIC) titled "USDA/FCIC–1–Accounts Receivable, USDA/FCIC", to read in its entirety as set forth below.

Signed at Washington, DC, on February 8, 1988.

Peter C. Myers,
Acting Secretary.

USDA/FCIC–1

SYSTEM NAME:

Accounts Receivable, USDA/FCIC.

SYSTEM LOCATION:

Kansas City Operations Office, Federal Crop Insurance Corporation, 9435 Holmes, Kansas City, Missouri 64131. A copy is also maintained in the applicable Field Operations Office for the State(s), and the Service Office for the county(ies) of the Federal Crop Insurance Corporation, as well as the ASCS County Offices of the United States Department of Agriculture. Addresses of these field offices may be obtained from the Director, Field Operations Division, FCIC, Washington, D.C. 20250.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are indebted to the Federal Crop Insurance Corporation.

CATEGORIES OF RECORDS IN THE SYSTEMS:

System consists of a master list of indebtedness by county and individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1501–1520; 7 CFR 2.73.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Referral to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting a violation of law, or of enforcing or implementing a statute, rule, regulation or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute or by rule, regulation or order issued pursuant thereto.

(2) Disclosure to a court, magistrate or administrative tribunal, or to opposing counsel in a proceeding before a court, magistrate, or administrative tribunal, of any record within the system which constitutes evidence in that proceeding, or which is sought in the course of discovery.

(3) Disclosures may be made from this system with respect to delinquent debts to a credit reporting agency consistent with the provisions of 31 U.S.C. 3701, 3702, 3711–3720A, and the Federal Claims Collection Standards, 4 CFR 102.2.

(4) Referral of legally enforceable debts to the Department of the Treasury, Internal Revenue Service (IRS) to be offset against any tax refund that may become due the debtor for the tax year in which the referral is made, in acordance with the IRS regulations at 26 CFR 301.6402–6T, Offset of Past-Due Legally Enforceable Debt Against Overpayment, and under the authority contained in 31 U.S.C. 3720A.

(5) Referral to a collection agency, when FCIC determines such referral is appropriate for collecting the debtor's account as provided for in U.S. Government contracts with collection agencies.

(6) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(7) Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or 31 U.S.C. 3701(a)(3)).

(8) Referral of commercial credit information, which is filed in the system, to a commercial credit reporting agency for it to make the information publicly available. 7 CFR 3.35.

(9) Referral of information regarding indebtedness to the Defense Manpower Data Center, Department of Defense, and the United States Postal Service, for the purpose of conducting computer matching programs to identify and locate individuals receiving Federal salary or benefit payments and who are delinquent in their repayment of debts owed to the U.S. Government under certain programs administered by the Federal Crop Insurance Corporation in order to collect debts under the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365) by voluntary repayment, administrative or salary offset procedures, or through the use of collection agencies.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on computer printouts, magnetic tape, microfiche, and also in a card index in county ASCS offices.

RETRIEVABILITY:

Records are indexed by State, county, and name of individual.

SAFEGUARDS:

Records are accessible only to authorized personnel and are maintained in offices which are locked during non-duty hours.

RETENTION AND DISPOSAL:

Records are maintained until the indebtedness is paid. Paper records for disposal are delivered to custodial services for disposal as waste paper. Magnetic tape records are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Federal Crop Insurance Corporation, USDA, Washington, DC 20250.

NOTIFICATION PROCEDURE:

An individual may request information regarding this system of records or information as to whether the system contains records pertaining to such individual from the service office. Addresses of locations where records are maintained may be obtained from the Director, Field Operations Division, FCIC, Washington, DC 20250. The request for information should contain (1) Individual's name and address, (2) State(s) and county(ies) where such individual farms, and (3) the individual policy number, if known.

RECORD ACCESS PROCEDURE:

An individual may obtain information as to the procedures for gaining access to a record in the system which pertains to such individual by submitting a written request to the Director, Field Operations Division, FCIC, Washington, DC 20250.

CONTESTING RECORD PROCEDURES:

Same as access procedure.

RECORD SOURCE CATEGORIES:

Information in this system comes from the individual debtor.

[FR Doc. 88–2912 Filed 2–10–88; 8:45 am]

BILLING CODE 3410-08-M

Forest Service

Intent To Prepare Environmental Impact Statement; Kuiu Island Area Analysis, Alaska

AGENCY: Forest Service, USDA.

ACTION: Rescission of notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Department of Agriculture, Forest Service, has suspended the environmental impact statement being prepared to refine management direction for Kuiu Island on the Petersburg Ranger District, Stikine Area, Tongass National Forest, Alaska.

The Notice Of Intent, published in the **Federal Resister** of March 17, 1987, is hereby rescinded (51 FR 8322).

FOR FURTHER INFORMATION CONTACT: Questions regarding the suspension of the environmental impact statement process for the Kuiu Island Area. Analysis should be directed to Peter M. Tennis, District Ranger, Petersburg Ranger District, P.O. Box 1328, Petersburg, Alaska 99833, phone 907–772–3871.

SUPPLEMENTARY INFORMATION: A new Notice Of Intent will be published when the project is rescheduled. All participants who responded during the public scoping process will be notified in writing of this announcement.

Date: February 1, 1988.

Douglas K. Barber,

Acting Forest Supervisor.

[FR Doc. 88–2990 Filed 2–10–88; 8:45 am]

BILLING CODE 3410-11-M

A Proposal to Drill the Ruby A Federal Exploratory Oil and Gas Well; Carbon County, MT and Park County, WY; Intent To Prepare an Environmental Impact Statement

Beartooth Ranger District and Clarks Fork Ranger District; Administered by the Custer National Forest And Shoshone National Forest.

The USDA, Forest Service, as lead agency, and the USDI, Bureau of Land Management, will cooperatively participate in the preparation of an Environmental Impact Statement to disclose the environmental effects of a proposed oil and gas exploratory well (Ruby A Federal) on the Line Creek Plateau of the Beartooth Ranger District.

Phillips Petroleum Company submitted an application for Permit to Drill (APD) on January 21, 1988, for the Ruby A Federal oil and gas well on Federal Oil and Gas Lease M–60558. The proposed drill site is located in the NE¼ NW¼ Section 9, T. 9 S., R. 20 E., MPM.; this site is located within Management Area D of the Custer National Forest Plan and Management Areas 2B and 3A of the Shoshone National Forest Plan. The well has a proposed depth of 14,000 feet.

Federal, State, and local agencies, potential developers, and other individuals or organizations who may be interested in or affected by the decision

are invited to participate in the scoping process.

The Beartooth District Ranger will hold a formal public meeting at the Red Lodge High School Cafeteria at 7:00 p.m., Tuesday, March 22, 1988. In addition there will be public meetings held at the Beartooth Ranger Station in Red Lodge, Montana, from 9:00 a.m.–12:00 a.m. and 7:00 p.m.–10:00 p.m. on Wednesday, March 23, 1988.

The purpose of these meetings is to determine the scope of the issues to be addressed and to identify the significant issues related to this proposed action early in the analysis process.

David A. Filius, Forest Supervisor, P.O. Box 2556, Billings, MT 59103, is the responsible official.

Written comments and suggestions concerning the analysis should be sent to the District Ranger, Route 2, Box 3420, Red Lodge, MT 59068.

Questions about the proposed action and Environmental Impact Statement should be directed toward Phil Jaquith, District Ranger, Beartooth Ranger District, Phone 406–446–2103.

The public comment period for this analysis will end May 2, 1988. Please ensure your comments are received in written form by the above date.

Date: February 5, 1988.

John P. Inman,

Deputy Forest Supervisor.

[FR Doc. 88–2890 Filed 2–10–88; 8:45 am]

BILLING CODE 3410–11–M

Kangaroo Fire Recovery, Klamath National Forest, Siskiyou County, CA; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service will prepare an environmental impact statement for a proposal to implement fire recovery projects on a portion of the Fort/Copper fire area on the Oak Knoll Ranger District; the project boundary will be the Kangaroo released-roadless area.

A range of alternatives for this proposal will be considered. One of these will be to do no recovery activities in the project area. Other alternatives will be considered ranging from intensive recovery (including salvage of timber, watershed, fisheries, wildlife and visual projects) to low intensity recovery (minimal projects).

Federal, State, and local agencies; and other individuals or organizations who may be interested in or affected by the decision will be invited to participate in the scoping process. This process will include:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a previous environmental review.
4. Determination of potential cooperating agencies and assignment of responsibilities.

The Fish and Wildlife Service, Department of the Interior, will be invited to participate as a cooperating agency to evaluate potential impacts on threatened and endangered species habitat if any such species are found to exist in the potential project area.

The Forest Supervisor will hold a public meeting at the Forest Supervisors Office, large conference room, 1312 Fairlane Road, Yreka, California, on March 9, 1988, at 7:00 p.m. This meeting will be held in conjunction with the Grider EIS.

Robert L. Rice, Forest Supervisor, Klamath National Forest, Yreka, California is the responsible official.

The analysis is expected to take about 4 months. The draft environmental impact statement should be available for public review by June, 1988. The final environmental impact statement is scheduled to be completed by August, 1988.

Written comments and suggestions concerning the analysis should be sent to John G. Greer, District Ranger, Oak Knoll Ranger District, Klamath National Forest, 22541 Highway 96, Klamath River, California, 96050, by March 9, 1988.

Questions about the proposed action and environmental impact statement should be directed to Mark S. Chaney, Special Project Assistant, Oak Knoll Ranger District, Klamath National Forest, 22541 Highway 96, Klamath River, California, 96050, phone (916) 465–2241.

Dated: February 2, 1988.

Robert L. Rice,

Forest Supervisor.

[FR Doc. 88–2956 Filed 2–10–88; 8:45 am]

BILLING CODE 3415–11–M

CIVIL RIGHTS COMMISSION

Louisiana 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 Voting Rights Project Subcommittee of the Louisiana Advisory Committee to the Commission will convene at 4:30 p.m. and adjourn at 6:30 p.m., on February 25, 1988, at the Holiday Inn Crowne Plaza, 333 Poydras Street, New Orleans, Louisiana. The purpose of the meeting is to discuss issues regarding voter registration and voting procedures in the State and make plans for a proposed project on that topic.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Michael R. Fontham, or Melvin Jenkins, Director of the Central Regional Division (816) 374–5253, (TDD 816/374–5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 3, 1988.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 88–2897 Filed 2–10–88; 8:45 am]

BILLING CODE 6335–01–M

New Jersey Advisory Committee; Agenda and Notice of 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 Jersey Advisory Committee to the Commission will convene at 7:00 p.m. and adjourn at 9:30 p.m. on March 7, 1988, at the Quality Inn Conference Center, Route 1, South, New Brunswick, NJ 08902. The purpose of the meeting is to discusss topics and decide on a program activity for the remainder of fiscal year 1988.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Stephen Balch or John I. Binkley, Director of the Eastern Regional Division at (202) 523–5264, (TTD 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, February 5, 1988.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 88–2957 Filed 2–10–88; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: 1987 Census of Manufactures—Textile Machinery in Place
Form Number: Agency—MC-227; OMB—NA
Type of Request: New collection
Burden: 5,200 respondents; 5,200 reporting hours
Needs and Uses: This survey provides the only information on textile machinery in place in factories. Data are used to monitor the modernization of textile plants, to determine current capacity, to analyze and forecast long-term changes in textile product and textile machinery industries, and to study the effects of imports
Affected Public: Businesses or other for profit institutions
Frequency: Quinquennially
Respondent's Obligation: Mandatory
OMB Desk Officer: Francine Picoult, 395-7340

Agency: Bureau of the Census
Title: Exit Interview Program
Form Number: Agency—BC-1294; OMB—NA
Type of Request: New collection
Burden: 500 respondents; 42 reporting hours
Needs and Uses: During the last few years the Census Bureau has experienced a high rate of interviewer turnover. Interviewer turnover can reduce data quality and increase data collection costs. The Censue Bureau's Strategic Planning process established specific goals with respect to reducing interviewer turnover. Information obtained through this data gathering activity will help identify causes and provide insight into appropriate solutions
Affected Public: Individuals or households
Frequency: One time
Respondent's Obligation: Voluntary
OMB Desk Officer: Francine Picoult, 395-7340

Agency: Bureau of the Census
Title: Report on Shipments to Federal Government Agencies
Form Number: Agency—MA-175, MA-175C; OMB—0607-0149
Type of Request: Reinstatement of a previously approved collection for which approval has expired
Burden: 7,000 respondents; 12,250 reporting hours
Needs and Uses: This survey is the only source of information on the value of manufacturers' shipments to the Federal Government by standard industrial classification and on employees engaged in work related to Government expenditures for manufactured products. This information is important in determining the effect of purchases by the Federal Government on the economy
Affected Public: Businesses or other for-profit institutions
Frequency: Quinquennially—full scale survey; Annually—scale-down survey
Respondent's Obligation: Mandatory
OMB Desk Officer: Francine Picoult, 395-7340.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue NW., Washington DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Francine Picoult, OMB Desk Officer, Room 3228 New Executive Office Building, Washington, DC 20503.

Dated: February 5, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88-2929 Filed 2-10-88; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

Fiber Optics Subcommittee of the Telecommunications Equipment Technical Advisory Committee; Open Meeting

Federal Register citation of previous announcement: 53 FR 2773, February 1, 1988.

Amendment to the meeting agenda—additional items added:

3. Foreign Availability Update.
4. Discussion of performance specifications for mono and multi-mode fiber production.
5. Characterization of control parameters for high and low biofringent fibers.
6. Discussion of coherent fiber optic transmission control parameters.

Dated: February 5, 1988.

Betty Anne Ferrell,

Acting Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 88-2857 Filed 2-10-88; 8:45 am]

BILLING CODE 3510-DT-M

Switching Subcommittee of the Telecommunications Equipment Technical Advisory Committee; Open Meeting

Federal Register citation of previous announcement: 53 FR 2774, February 1, 1988.

Amendment to the meeting agenda—additional items added:

3. Report on ICOTT activities.
4. Foreign Availability update.
5. Industry comments on current controls on message and packet switching.

Date: February 5, 1988.

Betty Anne Ferrell,

Acting Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 88-2858 Filed 2-10-88; 8:45 am]

BILLING CODE 3510-DT-M

Telecommunications Equipment Technical Advisory Committee; Open Meeting

Federal Register citation of previous announcement: 53 FR 2774, February 1, 1988.

Amendment to the meeting agenda—additional items added:

4. Introduction of new members.
5. Report on ICOTT activities.
6. Discussion of regulatory changes.
7. Foreign Availability update.
8. Discussion of control of analog transmission equipment.

Date: February 5, 1988.

Betty Anne Ferrell,

Acting Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 88-2856 Filed 2-10-88; 8:45 am]

BILLING CODE 3510-DT-M

[A-588-015]

Television Receivers, Monochrome and Color, From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On July 20, 1987, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on television receivers, monochrome and color, from Japan. The review covers five manufacturers and/or exporters of this merchandise to the U.S. and generally the periods April 1, 1982

through March 31, 1983 and March 1, 1985 through February 28, 1986.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received and the correction of certain clerical errors, we have changed the final results for certain firms from those presented in our preliminary results of review.

EFFECTIVE DATE: February 11, 1988.

FOR FURTHER INFORMATION CONTACT: Eugenio Parisi or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923/3601.

SUPPLEMENTARY INFORMATION:

Background

On July 20, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 27234) the preliminary results of its administrative review of the antidumping finding on television receivers, monochrome and color, from Japan (36 FR 4597, March 10, 1971). The petitioners, Zenith Electronics Corporation ("Zenith") and the International Brotherhood of Electrical Workers, Independent Radionic Workers of America, the International Union of Electronic, Electrical, Technical, Salaried & Machine Workers, and the Industrial Union Department, AFL-CIO ("the Unions"), and two respondents, Sanyo and Hitachi, requested in accordance with § 353.53a(a) of the Commerce Regulations that we conduct an administrative review. We have now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of television receiving sets, monochrome and color, and include but are not limited to projection televisions, receiver monitors, and kits (containing all the parts necessary to receive a broadcast television signal and produce a video image). Not included are certain monitors not capable of receiving a broadcast signal, certain combination units (combinations of television receivers with other electrical entertainment components such as tape recorders, radio receivers, etc.), and certain subassemblies not containing the components essential for receiving a broadcast television signal and producing a video image.

The review covers five manufacturers and/or exporters of Japanese television receivers, monochrome and color, and generally the periods April 1, 1982 through March 31, 1983 and March 1, 1985 through February 28, 1986.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received comments from one of the petitioners, Zenith, and three respondents, NEC, Mitsubishi, and Fujitsu General. We received additional comments from the respondents concerning mathematical or clerical errors. We have corrected such errors but have not addressed them specifically in this notice.

Analysis of Petitioner's Comments

Comment 1: Zenith argues that the Department should have implemented the ruling of the Court of International Trade ("CIT") in *Zenith* v. *United States* (April 24, 1986) by adding to United States price ("USP") the internal taxes rebated or forgiven upon the exportation of the merchandise to the extent that those taxes were "passed through" and included in the price of televisions sold in Japan.

Department's Position: The Court of International Trade issued its final decision in *Zenith* on January 14, 1988. We do not agree with that decision and, pending a final decision on whether the Government will appeal, we are continuing to assume that all indirect taxes in the home market are passed through to the ultimate customers. We did not attempt to measure the amount of tax "passed through" to customers in the Japanese market for several reasons. First, we do not agree that the statutory language limiting the amount of the adjustment to the amount of the commodity tax "added to or included in the price" of televisions sold in Japan requires the Department to measure the incidence of the tax in an economic sense. Second, applying such an interpretation would be contrary to the obligations of the United States under the GATT Dumping Code. Third, measuring the incidence of the commodity tax in Japan would be an enormous and extremely complex task. The Department simply lacks the resources, in terms of both manpower and expertise, to shoulder such a burden.

We agree that the amount of commodity tax forgiven by reason of the export of televisions to the United States must be added to USP under the statute. We calculated the adjustment by multiplying the ex-factory price by the tax rate and adding the result to USP. To avoid artificially inflating or deflating margins, we made circumstances-of-sale adjustments, where appropriate.

Comment 2: Zenith argues that the Department improperly failed to deduct antidumping legal expenses from exporter's sales price ("ESP").

Department's Position: We do not agree that legal expenses associated with antidumping proceedings should be deducted from ESP. See our position on *Comment 3* in *Television Receivers, Monochrome and Color, From Japan; Final Results of Antidumping Duty Administrative Review*, 52 FR 8940, March 20, 1987.

Comment 3: Zenith contends that whenever merchandise subject to an antidumping finding is given away to a zero price, including samples, a margin must be calculated for the transaction.

Department's Position: We agree that goods entered for consumption are subject to an antidumping finding whenever ownership transfers from the exporter of such goods.

Comment 4: Zenith argues that the Department's policy of instructing Customs to collect cash deposits for future entries on the basis of a weighted-average percentage of USP understates the amounts that should be collected because USP will always be higher than entered values. Since the percentage calculated on the basis of USP will subsequently be applied to the lower entered value, it will understate the true estimated duty. Zenith urges the Department to calculate the deposit rate as a percentage of entered value.

Department's Position: We disagree. See our position on *Comment 7* in our previous final results notice (52 FR 8940, March 20, 1987).

Comment 5: Zenith argues that the Department failed to account for interest income earned on deferred payments of rebates and discounts.

Department's Position: Unlike situations when an expense is inherent in a transaction (e.g., credit costs when payment is delayed) yet no sales-specific quantification of such cost exists in a company's records, in this situation an allocated sales-specific cost exists in the company's records. The Department avoids imputing expenses/costs where a company quantifies the actual expenses/costs, provides adequate documentation of those expenses, and the company's quantification accurately reflects the expense to the seller. Our examination of the rebate and/or discount system used by the Japanese manufacturers indicates a system where the manufacturers paid rebates and/or discounts according to set schedules governed by contracts and/or purchase

orders between the manufacturers and the customers. As such, the amount of the rebate/discount paid to the customer represents the allocated expense to the seller.

Comment 6: Zenith argues that the Department should delete from NEC's home market sales data base certain home market sales at abnormally low prices, as it did in its review of the prior period.

Department's Position: We disagree. We examined the FMV's in question and are satisfied that they were in the ordinary course of trade and in the unusal commercial quantities.

Comment 7: Zenith urges the Department to deduct from USP the actual amount of estimated antidumping duties paid by the respondents.

Department's Position: We disagree. We do not consider estimated antidumping duties paid to be expenses related to the sales under consideration. In addition, adding these estimated duties to the dumping margins would artificially inflate them.

Comment 8: Zenith argues that the Department must allocate Fujitsu General's home market advertising, sales promotion, and warranty expenses over the sales value of all purchaser categories.

Department's Position: Since this is our standard policy and practice, we agree and have made the appropriate corrections to our calculations.

Comment 9: Zenith asserts that the Department improperly disregarded negative and corresponding positive sales in the United States.

Department's Position: There were no negative quantities or values in the United States and home market sales listings. We note that for subsequent reviews we are requiring respondents to provide computer tapes net of, and a listing identifying, all negative and corresponding positive quantities and values in both markets.

Comment 10: Zenith asserts that, in Mitsubishi's case, the Department improperly matched a 45-inch export model and a 50-inch export model with a 72-inch home market model.

Department's Position: We agree. For these two U.S. models for comparison purposes we have used the home market model proposed by Mitsubishi and Zenith.

Comment 11: Zenith contends that Mitsubishi calculated home market data on packing and merchandise differences on a semiannual basis (April–September '85) for sales which occurrred in March '85, and urges the Department to use the data from the previous semiannual period (October '84–March '85) to calculate adjustments for March '85 sales.

Department's Position: We agree and have made the appropriate corrections to our calculations.

Comment 12: Zenith asserts that, in calculating a model-specific home market advertising expense for Fujitsu General, we should divide the expense by the total number of units sold for each model.

Department's Position: We disagree. Our policy of allocating this expense to the total sales value of the home market comparison model results in a reasonable and accurate allocation.

Comment 13: Zenith asserts that, because Fujitsu General failed to provide packing costs, the Department should use the lowest home market packing costs and the highest U.S. packing costs from the previous review period.

Department's Position: As best information available we used Fujitsu General's actual, verified home market and U.S. packing costs from the 5th review period.

Comment 14: Zenith objects to the Department's recalculation of 12-month expense data in the home market and urges the Department to use six-month expense data provided by Fujitsu General.

Department's Position: We disagree. Our policy of allocating expenses incurred during a review period to the value of all sales during the review period is reasonable and produces accurate results.

Comment 15: Zenith argues that the Department failed to deduct certain home market and export inland freight expenses for Fujitsu General.

Department's Position: We verified that Fujitsu General could not segregate these costs and that these portions of inland freight expenses for both markets were the same.

Comment 16: Zenith argues that the Department may have incorrectly included non-selling expenses as part of the ESP offset to FMV.

Department's Position: We confirmed that the ESP offset includes only indirect selling expenses.

Comment 17: Zenith argues that the Department should identify the direct and indirect components of U.S. commissions and should offset home market indirect selling expenses up to the amount of only the indirect component of U.S. commissions.

Department's Position: We disagree. Respondents have demonstrated that commissions paid to unrelated parties bear a direct relationship to the sales under consideration. It is not necessary to examine how the commissionaire spent the money; to the seller it is a direct expense, incurred only because a particular sale was made. We have treated these expenses as direct circumstance-of-sale adjustments according to § 353.15 of the regulations and, where appropriate, have deducted indirect selling expenses in the market where there is no commission, up to the amount of the commission in the other market.

Comment 18: Zenith argues that for Mitsubishi the Department imnproperly treated as a direct expense certain home market inland freight costs from the factory to the Transportation Center. This expense was incurred before the date of sale and, therefore, should be treated only as an indirect selling expense.

Department's Position: We agree and have made the appropriate corrections.

Comment 19: Zenith argues that the Department incorrectly allowed as a direct expense Mitsubishi's home market warranty claim; this claim consists entirely of labor expenses incurred by Mitsubishi's related service company and should, therefore, be treated as an indirect expense.

Department's Position: We agree and have made the appropriate corrections.

Comment 20: Zenith argues that the Department incorrectly allowed the freight-out expense of Mitsubishi's U.S. subsidiary (MESA) to be allocated according to value; instead, movement expenses should be allocated according to sales volume.

Department's Position: In calculating freight costs, we prefer to calculate these expenses based on cubic volume or weight. However, since MESA does not maintain these records based on cubic volume or weight, we accepted the allocation based on value as a reasonable alternative.

Comment 21: Zenith claims that Mitsubishi failed to report the ESP warranty expense for one export model and failed to report its ESP warranty parts expenses on a model-specific basis.

Department's Position: As best information available in our final calculations we used the same warranty expense ratio for that one export model that was used for other U.S. projection models. We agree that Mitsubishi did not report ESP warranty parts expenses on a model-specific basis; therefore, we allocated these expenses based on sales value as best information available.

Comment 22: Zenith argues that Mitsubishi and NEC understated their U.S. indirect selling expenses in their ESP responses.

Department's Position: We disagree in part. We are satisfied that Mitsubishi's method of allocating these expenses is accurate. However, we agree that NEC's allocation of indirect selling expenses was understated and have revised our calculations using NEC's correct data.

Comment 23: Zenith asserts that in its ESP calculations the Department failed to deduct Fujitsu General's U.S. advertising expenses.

Department's Position: We agree and have deducted these expenses in the applicable ESP calculations.

Comment 24: Zenith urges the Department to delete from Fujitsu General's home market data base abnormally low home market prices which were due to data entry errors.

Department's Position: We agree in part. We have deleted from our calculations those transactions that showed a zero price.

Comment 25: Zenith argues that in its ESP calculations the Department used an incorrect number of days to compute NEC's imputed financing costs and urges the Department to use the number of days supplied by NEC.

Department's Position: We agree and have recalculated this expense accordingly.

Comment 26: Zenith objects that for NEC the Department incorrectly calculated the FMV for one home market comparison model and the accompanying remote control unit, because the Department improperly deducted certain commodity tax, royalty, and insurance expenses twice.

Department's Position: We agree and have revised our calculations accordingly.

Comment 27: Zenith urges the Department to change its calculation of NEC's export inland freight.

Department's Position: Zenith's proposal to modify our calculation of export inland freight would have an insignificant effect (a difference of one yen per cubic foot); therefore, we have disregarded it.

Comment 28: Zenith argues that the Department should deduct from USP a commission paid by Fujitsu General to its related U.S. subsidiary, Teknika, for acting as the importer of record in certain purchase price transactions.

Department's Position: We disagree. We consider payments to related parties to be mere intracorporate transfers of funds rather than commissions. there is no statutory or regulatory basis for deducting such payments from purchase price.

Comment 29: Zenith argues that for NEC the Department failed to include in its calculations six purchase price sales.

Department's Position: We agree in part. We have checked our records and reviewed three additional purchase price sales for NEC. We reviewed the other three sales in the previous review period.

Analysis of Respondents' Comments

Comment 30: Fujitsu General, Sanyo, NEC, and Mitsubishi argue that the Department should have implemented the CIT's ruling in *Zenith* by adding to USP the amount of internal taxes forgiven or rebated upon the exportation of the merchandise. This would require the Department to add to USP an amount equal to the Japanese commodity tax that would have been imposed by the Japanese government upon the exported merchandise had it not been exported.

Department's Position: See our position on *Comment 1.*

Comment 31: NEC and Fujitsu General argue that in the settlement agreements signed on April 28, 1980 by the Department and 22 importers, the Department agreed to ascertain statutory FMV precisely as it had in the past, that is, to use "traditional methodology" in calculating home market advertising, sales promotion, and warranty expenses, and that the Department is obligated thereby to use the so-called "traditional methodology" in this review.

Department's Position: See our position on *Comment 28* in our previous final results notice (52 FR 8943, March 20, 1987).

Comment 32: Fujitsu General and NEC argue that the Department should have used a six-month weighted-average home market price to calculate FMV.

Department's Position: We disagree. See our position on *Comment 29* in our previous final results notice (52 FR 8943, March 20, 1987).

Comment 33: NEC asserts that the Department should have based FMV on sales in the "principal markets," rather than in all markets in Japan.

Department's Position: We disagree. In calculating FMV our policy is to use all home market sales of such and similar merchandise that are in the ordinary course of trade and in the usual commercial quantities. NEC furnished no evidence to support its assertion that its principal markets were less than all markets in Japan.

Comment 34: NEC asserts that the Department violated the Administrative Procedures Act by retroactively applying new practices to the 4th review period.

Department's Position: We disagree. These reviews are not subject to the Administrative Procedures Act. As we have stated elsewhere, we need not apply changes in methodology only on a "prospective" basis (*see* our position on *Comment 1* in the *Final Determination of sales at Less Than Fair Value; Color televisions from Korea,* 49 FR 7620, March 1, 1984).

Comment 35: NEC asserts that the Department improperly denied an adjustment by not deducting from FMV the profit, selling, general, and administrative expenses incurred by its sales companies.

Department's Position: We disagree in part. We do not adjust foreign market value to account for sales companies' profits. Furthermore, NEC did not demonstrate that the claimed selling expenses were related solely to the sales of comparison models. We do, however, consider these expenses indirectly-related selling expenses. Therefore, we included them in the ESP offset and allocated them to the total sales value of all televisions sold in the home market during the period.

Comment 36: NEC asserts that the Department improperly disallowed NEC's home market advertising and sales promotion expenses. NEC adds that the Department should at least allow certain portions of these claimed expenses.

Department's Position: We disagree. We disallowed the claimed adjustments, as either direct or indirect selling expenses, because they could not be satisfactorily verified.

For advertising and sales promotion expenses we proceeded as follows in this review. When a respondent claimed a larger amount than the sample we verified, we allowed the verified sample amount. When the claimed amount was equal to or less than the verified sample amount, we allowed the claimed amount. (We did not use the verified sample amounts in these instances respondents should not benefit from their unwillingness to provide complete responses.) Finally, when we were unable to verify the sample amount, we denied the claimed amount in its entirety.

Comment 37: NEC argues that the Department incorrectly disallowed the labor portion of its warrantly and that we should allow NEC's five-year model-specific warranty data or NEC's one-year product line data.

Department's Position: We have allowed only the model-specific warranty expense for parts costs as a directly-related selling expense, because we consider the labor portion performed by NEC's related service company to be a fixed cost, not directly related to the sales in this period. However, we have allowed this labor expense as an

indirectly-related selling expense and included it in the ESP offset.

Comment 38: NEC argues that the Department failed to deduct home market inland freight expenses.

Department's Position: Because we could not satisfactorily verify the home market inland freight expenses, we disallowed the claim.

Comment 39: Fujitsu General argues that the Department erred in imputing financing costs for U.S. sales from the date of export to the date of sale.

Department's Position: We disagree. We impute an interest expense for the period between the date of shipment from Japan and the date of sale in the U.S. because the opportunity cost of holding inventory is a real expense which Fujitsu General could not identify in its pool of claimed interest expenses.

Comment 40: Fujitsu General argues that the Department failed to account for imputed financing costs in the home market and urges the Department to calculate these costs from production date to sales date to unrelated customers.

Department's Position: We did not make any adjustment for Fujitsu General in this case because it did not provide the necessary data to calculate the appropriate imputed financing costs.

Comment 41: Fujitsu General discovered several data input errors in the computer tape for Teknika's ESP sales and urges the Department to accept a new corrected computer tape.

Department's Position: Rather than accepting a new tape, we corrected the existing tape for these errors.

Comment 42: Fujitsu General asserts that in its calculation of FMV the Department should not have used sales to farmer cooperatives and small stores.

Department's Position: We disagree. We have no evidence that any of these sales were not in the ordinary course of trade or not in the usual commercial quantities.

Comment 43: Fujitsu General asserts that the Department improperly denied as direct expenses certain warranty expenses, portions of advertising, and sales promotions.

Department's Position: We disallowed portions of warranty and sales promotion expenses as direct expenses because Fujitsu General could not establish that these expenses were directly related to the sales under consideration. Instead, we allowed them in the ESP offset as indirect expenses. We disallowed portions of home market advertising expenses altogether because we could not satisfactorily verify these claims.

Comment 44: Fujitsu General asserts that the Department improperly treated certain purchase price sales as ESP transactions.

Department's Position: In its original questionnaire response Fujitsu General indicated that these sales occurred after the dates of importation. Therefore, in the preliminary results of review we treated these sales as ESP transactions. Fujitsu General has since proven that these sales occurred before the dates of importation. We are satisfied that these were purchase price transactions and have treated them as such in our final calculations.

Comment 45: Fujitsu General argues that we incorrectly disallowed its trade credit and market rebate ("TMCR") claim as a circumstance-of-sale adjustment directly attributable to color television sales and other products.

Department's Position: We disagree. The TMCR is a rebate and we allowed the company-supplied model-specific portions of this claimed adjustment but we disallowed those portions not shown to be related to sales used for comparison purposes.

Comment 46: Fujitsu General argues that the Department incorrectly disallowed portions of its sales promotion expenses which were allocated to color television receivers and color televisions/other products.

Department's Position: Fujitsu General did not establish that these expenses were directly related to sales being reviewed; however, we allowed them as indirectly-related selling expenses in our ESP offset calculation.

Comment 47: Fujitsu General claims that the Department should deduct packing costs for each model from claimed differences in merchandise.

Department's Position: We agree and have revised our calculations accordingly. We used Fujitsu General's actual, verified packing costs from the previous period as best information available and deducted these costs from the claimed merchandise differences for each television model.

Comment 48: Fujitsu General argues that the Department incorrectly disallowed as directly related expenses its home market warranty expenses incurred in-house and through independent retail stores and service outlets.

Department's Position: Fujitsu General did not report the home market warranty expense data as requested in our questionnaire. In addition, we could not satisfactorily verify that the referenced home market warranty expense data were directly related expenses. Therefore, we allocated them to the relative sales value of television receivers and considered them as indirect expenses.

Comment 49: Fujitsu General requests an additional adjustment for home market indirect selling expenses to be included in the ESP offset, specifically, for the Domestic Marketing Group in the Domestic Sales Division.

Department's Position: Fujitsu General first make this claim in its pre-hearing brief; this was too late in the review to be considered or verified.

Comment 50: Fujitsu General argues that the Department should calculate imputed financing costs and export selling expenses on the basis of the F.O.B. price to Teknika rather than the resale price by Teknika.

Department's Position: We agree in part. We imputed an interest expense from the date of shipment in Japan to the date of importation based on Fujitsu General's F.O.B. price to Teknika. However, we imputed financing costs from the date of importation to the date of shipment to the unrelated U.S. customer based on Teknika's price to unrelated U.S. customers. We agree that we should calculate export selling expenses on the basis of the F.O.B. price and have corrected our calculations accordingly.

Comment 51: Fujitsu General argues that the Department incorrectly deducted from ESP certain expenses for accommodation sales; instead, Fujitsu General argues that these expenses are not incurred for accommodation sales and, therefore, should not be deducted from ESP.

Department's Position: We disagree. Fujitsu General reported these expenses in its computer printout and gave no indication in its ESP response that certain expenses should not be deducted from accommodation sales.

Comment 52: Mitsubishi asserts that the Department improperly disallowed newspaper advertising expenses for March 1986 which were incurred within its fiscal year (April '85–March '86). Mitsubishi also asserts that exclusion of these expenses is inconsistent with the allowance of other expenses which were claimed on a fiscal-year basis.

Department's Position: Due to Mitsubishi's unique advertising strategy for this model, and because the Department altered the period examined, we have used Mitsubishi's advertising experience from the previous period as the best information available.

Comment 53: Mitsubishi argues that the Department incorrectly treated MESA's volume rebate as a direct expense; instead, it should be treated as an indirect expense.

Department's Position: We disagree. Since we consider such rebates as

adjustments to price, we deducted them accordingly.

Final Results of the Review

As a result of the comments received, we have revised our preliminary results and for appraisement purposes margins range from 0 to 71.92 percent, 0 to 46.14 percent, and 0 to 34.21 percent for Fujitsu General, Mitsubishi, and NEC, respectively. Also, cash deposit rates are as follows:

Manufacturer/exporter	Time period	Cash deposit (percent)
Sanyo	3/85-2/86	[1] 2.86
Hitachi	3/85-2/86	0.16
Fujitsu General	3/85-2/86	4.06
Mitsubishi Electric	3/85-2/86	1.35
Nippon Electric Co.	4/82-3/83	16.32

[1] No shipments during the period; rate from last review in which there were shipments.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. Individual differences between United States price and foreign market value may vary from the percentage ranges stated above.

Further, as provided for by section 751(a) of the Tariff Act, a cash deposit of estimated antidumping duties as noted above shall be required for these firms. Since the cash deposit for Hitachi is less than 0.5 percent, and therefore, *de minimis* for cash deposit purposes, the Department shall not require a cash deposit of estimated antidumping duties for Hitachi. For any shipments from Mitsushita, Victor, Toshiba, or Sharp the cash deposit will continue to be at the rate published in the final results of the last administrative reviews for each of these firms (46 FR 30163, June 5, 1981 and 50 FR 24278, June 10, 1985).

For any shipments from a new exporter, not covered in this or prior administrative reviews, whose first shipments of Japanese television receivers, monochrome or color, occurred after February 28, 1986, and who is unrelated to any reviewed firm or any previously reviewed firm, a cash deposit of 4.06 percent shall be required. These deposit requirements and waiver are effective for all shipments of Japanese television receivers, monochrome and color, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Gilbert B. Kaplan,

Acting Assistant Secretary for Import Administration.

Date: February 5, 1988.

[FR Doc. 88-2941 Filed 2-10-88; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Business Development Center Program Application; Virginia

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3-year period, subject to available funds. The cost of performance for the first 12 months is estimated at $194,118 for the project performance of July 1, 1988 to June 30, 1989. The MBDC will operate in the Norfolk, Virginia Metropolitan Statistical Area. The first year cost for the MBDC will consist of $165,000 in Federal Funds and a minimum of $29,118 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services). The award number will be 03-10-88005-10.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organizations, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judge on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3-year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

DATES: Closing Date: The closing date for applications is March 15, 1988. Applications must be postmarked on or before March 15, 1988.

ADDRESS: Washington Regional Office, Minority Business Development Agency, U.S. Department of Commerce, Room 6711, Washington, DC 20230, 202/377-8275.

FOR FURTHER INFORMATION CONTACT: Willie J. Williams, Regional Director, Washington Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

Willie J. Williams

Regional Director, Washington Regional Office.

Date: February 2, 1988.

[FR Doc. 88-2901 Filed 2-10-88; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Groundfish of the Bering Sea and Aleutian Islands

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

ACTION: Notice of intent to prepare a supplemental environmental impact statement (SEIS) and notice of scoping.

SUMMARY: NOAA announces its intention to prepare a SEIS to assess the potential effects of changing the optimum yield (OY) range specified for groundfish harvested from the Bering Sea and Aleutian Islands (BSAI) area. In addition, NOAA formally announces a public process for determining the scope of issues to be addressed and for identifying the significant issues related

to changing the OY range. This action is necessary to comply with Federal environmental documentation requirements.

DATE: Scoping comments are invited until March 11, 1988.

ADDRESS: Send scoping comments to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802–1668.

FOR FURTHER INFORMATION CONTACT: Jay J.C. Ginter, Fishery Management Biologist, Alaska Region, NMFS, 907–586–7229.

SUPPLEMENTARY INFORMATION: The commercial harvest of groundfish in the U.S. exclusive economic zone of the BSAI area is governed by Federal regulations at 50 CFR 611.93 and Part 675 which implement the Fishery Management Plan for the Groundfish Fishery in the Bering Sea and Aleutian Islands Area (FMP). The FMP and the accompanying environmental impact statement (EIS) were developed by the North Pacific Fishery Management Council (Council) and approved by the Secretary of Commerce (Secretary) under the Magnuson Fishery Conservation and Management Act (Magnuson Act). Under the National Environmental Policy Act of 1969 (NEPA) and NOAA policy, an amendment of the FMP which significantly affects the human environment requires preparation of a SEIS. This notice of intent to prepare an SEIS complies with NEPA implementing regulations at 40 CFR 1508.22. In addition, this notice announces a scoping process under 40 CFR 1501.7 and 1508.25.

The total allowable catch (TAC) of each species of groundfish from the BSAI area is specified annually by the Secretary after consultation with the Council as required under § 675.20 (a). This section also requires that the sum of the TACs must be within the OY range of 1.4 million to 2.0 million metric tons (mt). Recent scientific assessments of groundfish indicate that the sum total of acceptable biological catches (ABCs) for all groundfish species in the BSAI area could exceed the upper limit of the OY range and not cause overfishing of any particular species. Therefore, the Council is considering a recommendation to amend the OY range specified by the FMP and implementing regulations.

Substantially larger harvests of groundfish may be allowed under an amended definition of the OY range than under the current OY range. In accordance with NOAA policy, NMFS has determined that such increased harvests may cause a significant impact on the human environment and, therefore, that the EIS prepared for the original FMP should be revised and updated by an SEIS.

The public is hereby notified that the NMFS, in cooperation with the Council, intends to prepare an SEIS on the potential effects of amending the OY range specified by the FMP and implementing regulations. This action is not intended to prejudice a decision by the Council on whether to recommend any change in the OY range to the Secretary but instead is designed to provide the Council with the best scientific information available on which to base such a decision.

The Proposed and Possible Alternative Actions

The proposed action is to amend the OY range specified in section 11.2 of the FMP and 50 CFR 675.20(a) by defining the upper end of the OY range as the annual sum of the ABCs of the groundfish species managed under the FMP. Alternatives to this action include:

(1) The status quo in which the upper end of the OY range remains at 2.0 million mt;

(2) Defining the upper end of the OY range as the sum of the maximum sustainable yields of the species managed under the FMP;

(3) Defining the upper end of the OY range as a specific number (e.g. 2.5 million mt); and

(4) Defining the upper end of the OY range as in the proposed action except that any increase in the sum of the TACs would be limited to five percent of that sum in the previous year.

Scoping Process

All persons affected by or otherwise interested in a decision to amend the definition of the OY range are invited to participate in determining the scope and the significant issues to be analyzed in the SEIS by submitting written comments to the above address. Scope consists of the range of actions, alternatives, and impacts to be considered in the SEIS. Actions include those which may be closely related, cumulative, or similar. Alternatives include the no action alternative, other reasonable courses of action, and mitigation measures. Impacts may be direct, indirect, and cumulative. The scoping process also will identify and eliminate from detailed study issues which are not significant or which have been covered in prior environmental reviews. This scoping process will end on the above date.

A preliminary scoping meeting was held by the Council on January 4–5, 1988, in Seattle, WA and additional comments were received during the January 20–22, 1988, Council meeting in Anchorage, AK. In addition, a working meeting of agencies contributing to the preparation of the SEIS will occur on February 16, 1988 from 10 am until 4 pm in the Council's office at 605 West 4th Ave., Room 306, Anchorage, AK. Time will be provided after the working meeting at 4 pm to receive public scoping comments.

Timetable for SEIS Preparation and Decisionmaking

The Council has adopted a tentative amendment preparation, review, and approval schedule for the OY range issue. Under this schedule, the draft SEIS is planned for completion prior to the Council's April 13–15, 1988 meeting. If an acceptable draft is completed, the Council would decide at this meeting whether to submit the draft SEIS for public review. Oral comments to the Council on their decision could be made at that meeting. If the Council's decision is affirmative, public review of the draft SEIS would occur during 45 days in May and early June of 1988. At its June 22–24, 1988, meeting, the Council would decide whether to recommend amendment of the OY range to the Secretary. Again, oral comments on this decision could be made to the Council at that meeting. If the Council's decision is affirmative, the SEIS would be made final and submitted with the amendment recommendation and other rulemaking documents to the Secretary for review and approval.

Under the Magnuson Act, Secretarial review and approval of a proposed amendment is completed in 95 days and includes concurrent public comment periods on the amendment and proposed rule. If approved by the Secretary under this schedule, the amended OY range and final implementing rule would be effective in early December 1988. The amended OY range would be used by the Council at its meeting of December 7–9, 1988, in determining groundfish TACs for the 1989 fishing season.

Dated: February 5, 1988.

Ann D. Terbush,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88–2869 Filed 2–10–88; 8:45 am]

BILLING CODE 3510–22–M

South Atlantic Fishery Management Council; Snapper Grouper Amendment 1; Public Hearings

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

ACTION: Notice of public hearings and request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a series of public hearings and provide a comment period to solicit public input into the proposed Amendment 1 to the Snapper Grouper Fishery Management Plan (FMP). A measure to prohibit the use of trawls in the snapper grouper fishery will be discussed.

DATES: See "**SUPPLEMENTARY INFORMATION**" for dates and locations of the hearings. All hearings will begin at 7:00 p.m. The public comment period will close April 15, 1988.

ADDRESS: All written comments should be addressed to Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407-4699.

FOR FURTHER INFORMATION CONTACT: Robert K. Mahood, 803-571-4366.

SUPPLEMENTARY INFORMATION: Amendment 1 to the FMP was prepared by the Council. It prohibits the use of trawl gear in the snapper grouper fishery. The intended effect of this amendment is to prevent habitat damage and prevent the harvest of undersized fish, thereby ensuring the continued productivity of the snapper grouper resource.

The dates and locations of the public hearings are scheduled as follows:

February 29, 1988—Holiday Inn—Oceanfront, 1617 First Street North, Jacksonville, FL

March 1, 1988—Holiday Inn, I-95 at Highway 341, Brunswick, GA

March 2, 1988—Holiday Inn Downtown, 121 W. Boundary Street, Savannah, GA; S.C. Wildlife & Marine Resources Center, Fort Johnson Road, Charleston, SC

March 3, 1988—Murrells Inlet Community Center, Murrells Road, Murrells Inlet, SC

March 4, 1988—Carteret Community College, Joselyn Auditorium, 3505 Arendell Street, Morehead City, NC

Dated: February 5, 1988.

Ann D. Terbush,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88-2870 Filed 2-10-88; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Public Hearing

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

ACTION: Notice of a public hearing and request for comments.

SUMMARY: The Western Pacific Fishery Management Council will hold a public hearing on Amendment 1 to the Precious Corals Fishery Management Plan (FMP). The public is encouraged to attend and interested parties will be given time to present views and comments. Written comments are also welcome.

DATES: The hearing will be held on February 16, 1988, at 7:30 p.m., comments are due by March 1, 1988.

ADDRESSES: The hearing will be held at the National Marine Fisheries Kewalo Basin Research Facility, Honolulu, HI.

Written comments may be sent to Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Kitty Simonds, 808-523-1368 or FTS, 808-541-1974.

SUPPLEMENTARY INFORMATION: Amendment 1 to the FMP proposes to (1) include the U.S. Pacific Island Possessions within the plan as a single exploratory area (X-P-PI) with a 1000 kg annual harvest quota for all species of precious corals combined, (2) revise the management unit species to include all commercially harvested precious corals in the genus *Corallium*, and (3) include a provision for experimental fishing permits (EFP).

Dated: February 5, 1988.

Ann D. Terbush,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88-2871 Filed 2-10-88; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council has scheduled five public workshops to discuss sablefish management. These workshops are essential in carrying forward the North Pacific Council's Statement of Commitment made at the Council's September 1987 meeting. The statement follows:

> Expansion of the domestic fleet harvesting fish within the Exclusive Economic Zone (EEZ) off Alaska has made compliance with the Magnuson Fishery Conservation and Management Act (MFCMA) National Standards and achievement of the Council's comprehensive goals more difficult under current management regimes. The North Pacific Fishery Management Council therefore is committed to pursue alternate management methods that will support the comprehensive goals adopted by the Council, and to achieve more productive and rational effort and harvest levels in the groundfish fishery. To fulfill this commitment the Council will develop strategies for license limitation or use of transferable quotas in the sablefish longline fishery. The process will begin at the September 1987 meeting and the Council intends to implement the selected management strategy for the 1989 season.

The workshops will be held in five different locations:

(1) February 23-24, 1988—National Marine Fisheries Service, Montlake Laboratory Auditorium, Seattle, WA; (2) March 14-15—Elks Club, Homer AK; (3) March 17-18—Senior Citizen's Hall, Kodiak, AK, (4) March 22-23—ANB Hall, Petersburg, AK, and, (5) March 25-26—Sheldon Jackson College, Sitka, AK.

All workshops will convene at 1:30 p.m. on the first day and continue from 9 a.m. through the afternoon of the second day. The afternoon sessions will begin with a review of objectives and procedures, and a discussion of various methods of access limitation. The following morning small groups will meet to discuss different types of programs and develop recommendations for the Council on what they believe is the best type of system. The discussion groups will look for areas of consensus; if consensus is not possible, the groups are expected to develop alternative positions. During the afternoon, groups will meet to compare views developed in the separate discussion groups and look for areas of agreement.

For more information contact the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 271-2809.

Date: February 5, 1988.

Ann D. Terbush,

Acting Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 88-2872 Filed 2-10-88; 8:45 am]

BILLING CODE 3510-22-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 87-1]

Miracle Recreation Equipment Co.; Prehearing Conference

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Prehearing Conference.

DATE: This notice announces a prehearing conference to be held in the

matter of Miracle Recreation Equipment Co., on March 22, 1988, at 9:30 a.m.

ADDRESS: The prehearing conference will be in Room 2155, 451 7th Street SW., Washington, DC. For additional information contact: Sheldon D. Butts, Deputy Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (301)492–6800.

Notice of Prehearing Conference

Please take notice that a prehearing conference in this proceeding will be held at 9:30 a.m., on March 22, 1988, in Room 2155, 451 7th Street SW., Washington, DC, for the purposes outlined in 16 CFR 1025.21(a). The Presiding Officer will be Administrative Law Judge Alan W. Heifetz. The following issues will be addressed:

1. Setting a time limit for any discovery not completed by the date of the conference;

2. Determining the nature, extent and form of expert witness' testimony;

3. Setting a date for the filing of motions;

4. Setting a date, time and place for the hearing;

5. And any other matters as may aid in the expeditious resolution of this proceeding.

Date: February 8, 1988.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 88–2920 Filed 2–10–88; 8:45 am]

BILLING CODE 6355-01-M

Request for Extension of Approval of Information Collection Requirements; Flammability Standards for Clothing Textiles and Vinyl Plastic Film

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a Request for extension of approval through February 28, 1991, of information collection requirements in regulations implementing the flammability standards for clothing textiles and vinyl plastic film. The regulations are codified at 16 CFR Parts 1610 and 1611, and prescribe requirements for testing and recordkeeping by persons and firms issuing guaranties for products subject to the Standard for the Flammability of Clothing Textiles and the Standard for the Flammability of Vinyl Plastic Film.

Additional Details About the Requested Extension of Approval of Requirements for Collection of Information

Agency Address: Consumer Product Safety Commission, Washington, DC 20207.

Title of Information Collection: Standard for the Flammability of Clothing Textiles, 16 CFR Part 1610; Standard for the Flammability of Vinyl Plastic Firm, 16 CFR Part 1611.

Type of Request: Extension of approval.

Frequency of Collection: Varies depending upon volume of goods manufactured or imported.

General Description of Respondents: Manufactures and importers of fabrics and film used in wearing apparel, and manufacturers and importers of garments other than children's sleepwear.

Estimated Number of Respondents: 1,000.

Estimated Average Number of Hours for Each Respondent: 101.6 per year.

Comments: Comments on this requested extension of approval of information collection requirements should be addressed to Pamela Barr, Desk Officer, Office Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; telephone (202) 395–7340. Copies of the request are available from Francine Shacter, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC. 20207; telephone (301) 492–6416.

This is not proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: February 3, 1988.

Sadye E. Dunn,

Secretary Consumer Product Safety Commission.

[FR Doc. 88–2921 Filed 2–10–88; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Organization of the Joint Chiefs of Staff; Joint Strategic Target Planning Staff (JSTPS), Scientific Advisory Group; Closed Meeting

AGENCY: Joint Strategic Target Planning Staff, Department of Defense.

ACTION: Notice of closed meeting.

SUMMARY: The Director, Joint Strategic Target Planning Staff has scheduled a closed meeting of the Scientific Advisory Group.

DATE: The meeting will be held on 1 March 1988.

ADDRESS: The meeting will be held at Offutt AFB, Nebraska.

FOR FURTHER INFORMATION CONTACT: The Joint Strategic Target Planning Staff, Scientific Advisory Group, Offutt AFB, Nebraska 68113.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss strategic issues which relate to the development of the Single Integrated Operational Plan (SIOP). Full development of the topics will require discussion of information classified TOP SECRET in accordance with Executive Order 12356, 2 April 1982. Access to this information must be strictly limited to personnel having requisite security clearances and specific need-to-know. Unauthorized disclosure of the information to be discussed at the SAG meeting could have exceptionally grave impact upon national defense. Accordingly, the meeting will be closed in accordance with 5 U.S.C. 552b(c)(1).

Linda Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

February 5, 1988.

[FR Doc. 88–2902 Filed 2–10–88; 8:45 am]

BILLING CODE 3810-01-M

Corps of Engineers, Department of The Army

Intent To Prepare a Draft Environmental Impact Statement (EIS) for the West Bank Mississippi River in the Vicinity of New Orleans, LA, Project (East of Harvey Canal)

AGENCY: U. S. Army Corps of Engineers, DOD, New Orleans District.

ACTION: Notice of intent to prepare a Draft EIS.

SUMMARY:

1. Proposed Action

The proposed action described in this statement is the plan for providing hurricane protection (levees, floodwalls, floodgates, etc.) on the West Bank of the Mississippi River east of the Harvey Canal, to include portions of Jefferson, Orleans, and Plaquemines Parishes. Protection for the communities of Lafitte and Barataria would be considered as well.

2. Alternatives

Protection against the 100–year event, the 200–year event, and the standard project hurricane event would be evaluated for each alternative considered.

a. Plan 1 consists of upgrading the existing protection levees and providing a new line of protection parallel to the Harvey Canal, generally along Peters

Road to the Hero Pumping Station (HPS). From the HPS the existing local levee that ties into the Federal levee along the Algiers Canal would be upgraded. The existing Federal levee would also be upgraded along its entire length. Further, the Federal levee along the southeast side of the canal would be upgraded and would tie into the local levee that continues back to the mainline Mississippi River levee. The local levee would be upgraded and incorporated into the Federal project. Because of the limited area available and the reasonableness of upgrading the existing protection system, only minor variation of alignment is possible where discontinuous protection exists along the Harvey Canal.

b. Plan 2 consists of combining an upgrade of existing levees and construction of floodwalls with the installation of a floodgate(s) in the Intracoastal Waterway.

c. Flood protection alternatives for the Lafitt/Barataria area consist of combinations of ring levees and floodgates.

d. The alternative of no action, or future condition without Federal action, will be the basis for comparing any action alternative considered.

3. Scoping Process

a. Public meetings were held in 1966, 1972, 1984, and 1986 regarding various proposals for hurricane protection on the West Bank of the Mississippi River. The proposals discussed at the 1966 and 1972 meetings were broad in scope and were primarily concerned with protection over a multi-Parish area. The 1984 and 1986 meetings were concentrated on a much smaller area, generally the area between Westwego, Louisiana, and the Harvey Canal. All affected Federal, state, and local agencies and other interested private organizations and parties are encouraged to participate in the EIS process.

b. The most significant issues to be analyzed are project economics and potential impacts on wetlands.

c. The U.S. Fish and Wildlife Service will provide a Draft Fish and Wildlife Coordination Act Report for attachment to the statement.

d. A 45-day review period for the Draft EIS will be allowed for all interested agencies and individuals.

4. Scoping

A scoping meeting will not be held; however, a letter soliciting input concerning environmental issues and alternatives to be addressed is scheduled to be issued during February 1988.

5. Availability

The Draft EIS is scheduled to be available to the public in the spring of 1989.

ADDRESS: Questions concerning the proposed action and draft EIS should be directed to Mr. Dave Reece, U.S. Army Corps of Engineers, Environmental Analysis Branch (CELMN-PD-RE), P.O. Box 60267, New Orleans, Louisiana 70160-0267, telephone (504) 862-2522.

Date: January 29, 1988.

Lloyd K. Brown,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 88-2889 Filed 2-10-88; 8:45 am]

BILLING CODE 3710-84-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed Replacement of the Core Creek Atlantic Intracoastal Waterway (AIWW) Bridge, Carteret County, NC

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: 1. Replacement of the Core Creek AIWW bridge was authorized by the River and Harbor Act of 1970 (Pub. L. 91-611) contingent upon the State of North Carolina contributing 25 percent of the actual first costs. The authorization was amended by the Water Resources Development Act of 1986 (Pub. L. 99-662) to provide for 100-percent Federal funding of the first costs. The State will be required to accept maintenance, replacement, and ownership responsibilities after construction.

The proposed replacement bridge would be a two-lane, high level, fixed-span bridge with a 65-foot vertical clearance over the waterway.

A number of bridge types, including post and beam continuous span structure, Delta-frame structure, and prestressed concrete drop-in structure, will be considered. Preliminary investigations indicate that an alignment could be located on either the north or south side of the existing bridge and that the total length of new road, approach, and bridge could vary between 6,600 feet and 9,400 feet. Various alignments will be investigated and a selection will be made based on economic, engineering, environmental, and social consideration.

2. The only alternative to the proposed project being considered, other than the various alignments and bridge designs, will be the no action alternative.

3. The scoping process will consist of public notification to explain and describe the proposed action, early identification of resources that should be considered during the bridge alignment study, and public review periods. Coordination with the public and other agencies will be carried out through public announcements, letters, report review periods, telephone conversations, and meetings.

a. All private interests and Federal, State, and local agencies having an interest in the project are hereby notified of project authorization and are invited to comment at this time. A scoping letter requesting input to the study will be sent to all known interested parties.

b. The significant issues to be addressed in the DEIS are the impacts of the project on wetlands, fish and wildlife habitat, and the social and economic conditions of the project area. Also to be considered will be the effect of the project on traffic patterns and safe vehicle operation.

c. The lead agency for this project is the U.S. Army Engineer District, Wilmington. Cooperating agency status has not been assigned to, or requested by, any other agency.

d. The DEIS is being prepared in accordance with the requirements of the National Environmental Policy Act of 1969, as amended, and will address the project's relationship to all other applicable Federal and State laws and Executive Orders.

4. A public scoping meeting is scheduled for February 24, 1988, at 7:30 p.m. It will be held in the Superior Court Room of the Carteret County Courthouse, Beaufort, North Carolina.

5. The DEIS is currently scheduled for distribution to the public in January 1989 and the Final EIS is scheduled for distribution in September 1989.

ADDRESS: Questions about the proposed action and DEIS should be directed to Mr. Coleman Long, Environmental Resources Branch, U.S. Army Engineer District, Wilmington, Post Office Box 1890, Wilmington, North Carolina 28402-1890, telephone: (919) 343-4751 or FTS 671-4751.

Date: February 5, 1988.

Paul W. Woodbury,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 88-2892 Filed 2-10-88; 8:45 am]

BILLING CODE 3710-GN-M

Intent To Prepare Two Draft Environmental Impact Statements (DEIS's) for the Proposed Land Loss and Marsh Creation Feature of the Louisiana Coastal Area, LA Project

AGENCY: U.S. Army Corps of Engineers, DOD, New Orleans District.

ACTION: Notice of intent to prepare two draft EIS's.

SUMMARY:

1. *Proposed Action*

Purpose of the project is to identify feasible measures to reduce land loss and create marsh to improve fish and wildlife habitat and productivity, as well as to preserve the capacity of the marsh to buffer hurricanes. The study was authorized 19 April 1967, by a resolution adopted by the Senate Committee on Public Works and by the House Committee on Public Works, 19 October 1967. An Initial Evaluation Study (IES) was conducted in 1984 to determine causes and extent of land loss in the coastal area, as well as to identify feasible measures to reduce land loss and create marsh.

The extensive and rapid loss of coastal wetlands in Louisiana, is the result of the combination of natural processes (compaction, subsidence, sea level rise, saltwater intrusion, and erosion), as well as man's activities (oil and gas exploration and production activities; levee building; channelization; and agricultural and urban and industrial expansion).

Continued land loss will result in serious detrimental effects on fish and wildlife productivity, as well as on cultural and recreational resources. Existing coastal residential and industrial developments are also threatened.

Four major areas were identified in the IES: Chandeleur and Breton Sound Basin, Barataria Basin, Terrebonne Basin, and Atchafalaya to Sabine River Basin. The documents currently in preparation will respectively consider Terrebonne Basin and Atchafalaya to Sabine River Basin, concentrating on marsh creation in Lafourche, Terrebonne, St. Mary, Iberia, Vermilion, and Cameron Parishes.

2. Alternatives.

Alternatives to be considered include marsh creation using maintenance-dredged material, uncontrolled and controlled sediment diversion projects, and marsh creation by non-maintenance dredging in larger navigation channels.

3. Scoping Process

a. At public meetings held in 1984, initial evaluation study results were discussed and local concerns and ideas obtained. Intra-agency scoping meetings have been conducted with the U.S. Fish and Wildlife Service, Soil Conservation Service, Louisiana Geological Survey, and the Louisiana Department of Natural Resources. The public involvement program will include a scoping letter and also meetings to obtain input regarding alternatives under consideration and significant resources to be evaluated in the EIS's. The participation of affected Federal, state, and local agencies, and other interested private organizations and parties will be invited.

b. Significant issues to be analyzed in the EIS's include impacts of the proposed project on biological, cultural, historical, social, and economic factors; also water quality and human resources, as well as project costs.

c. The U.S. Fish and Wildlife Service will provide Planning Aid Information and Coordination Act Reports for the draft EIS's.

d. The draft EIS's will be coordinated with all required Federal, state, and local agencies, as well as environmental groups, landowner groups, and interested individuals. All review comments received will be considered and responses to these comments will be presented in the final EIS's.

4. Public Meeting(s)

Public meetings were intially conducted in 1968, and other meetings were held in August 1984 in Belle Chasse, Houma, and Cameron, Louisiana, to inform the public about this study.

5. Availability

The draft EIS for Terrebonne Basin is scheduled to be available to the public in August 1990. The draft EIS for the Atchafalya to Sabine River Basin is scheduled to be available in June 1991.

ADDRESS: Questions concerning the proposed action and draft EIS's may be directed to Dr. David A. Vigh, U.S. Army Corps of Engineers, Enivronmental Quality Section (CELMN-PD-RE), P.O. Box 60267, New Orleans, Louisiana 70160-0267, Telephone (504) 862-2540.

Date: February 3, 1988.

Lloyd K. Brown,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 88-2960 Filed 2-10-88; 8:45 am]

BILLING CODE 3710-84-M

Defense Logistics Agency

Announcement of Direct Conversion to Contract Performance of Commercial Activities (CA) Function

AGENCY: Defense Logistics Agency (DLA).

ACTION: Notification of intent to effect direct conversion to contract performance of DLA CA function.

SUMMARY: The publication of decisions to directly convert commercial activities (CA) to contract performance is required by Supplement to OMB Circular No. A-76 (Revised) and DoD Instruction 4100.33, "Commercial Activities Program Procedures."

Based on a Simplified Cost Comparison conducted 24 November 1987, the Defense Logistics Agency will issue a solicitation to directly convert to contract performance the travel services of the Defense Logistics Services Center (DLSC), Battle Creek, MI. The travel services include performing a full range of DoD passenger transportation and ticketing services for CONUS and international travel.

FOR FURTHER INFORMATION CONTACT: Ms. Agnes Loomis, DLSC, Office of Policy and Plans (DLSC-LP), Federal Center, P.O. Box 3412, Battle Creek, MI 49016-3412, (616) 961-4834.

Interested commercial concerns should refer to announcements in the Commerce Business Daily (CBD) to be made as part of the contract solicitation process.

William J. Cassell,

Comptroller, Defense Logistics Agency.

[FR Doc. 88-2959 Filed 2-10-88; 8:45 am]

BILLING CODE 3620-01-M

DEPARTMENT OF EDUCATION

[CFDA No. 84.133E]

Reopening of the Closing Date for Transmittal of Applications for New Awards Under the National Institute on Disability and Rehabilitation Research (NIDRR) in One Priority Area of the Rehabilitation Engineering Centers Program for Fiscal Year 1988

Purpose: Provides funding through grants or cooperative agreements to public or private agencies or organizations, including institutions of higher education and Indian tribes or tribal organizations, to conduct programs that meet the specifications for funding in certain priorities published in final form in the **Federal Register** on December 21, 1987. NIDRR had published in the **Federal Register** of August 24, 1987, a notice requesting

transmittal of applications against the proposed priorities. NIDRR did not receive sufficient fundable applications in response to that notice, and thus is reopening the closing date in order to encourage the submission of additional applications or the resubmission of amended applications in one priority area. The area in which applications will be accepted is Rehabilitation Technology Transfer.

Deadline for Transmittal of Applications: April 11, 1988.

Applications Available: February 10, 1988.

Estimated Average Award: $700,000 per year.

Estimated Number of Awards: One.

Project Period: Up to 60 months.

Available Funds: $700,000.

Applicable Regulations: (a) Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78, (b) NIDRR regulations at 34 CFR Parts 350 and 353, and (c) the annual funding priorities for this program.

For Applications or Information Contact: National Institute on Disability and Rehabilitation Research, U.S. Department of Education, 400 Maryland Avenue SW., Switzer Building, Room 3070, Washington, DC, 20202. Telephone: (202) 732–1207, or (202) 732–1198 for TDD service.

Program Authority: 29 U.S.C. 762(b)(2).

Dated: January 29, 1988.

Madeleine Will,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 88–2937 Filed 2–10–88; 8:45 am]

BILLING CODE 4000–01–M

[CFDA No. 84.133F]

Extension Closing Date for Transmittal of Applications for Research Fellowships Under the National Institute on Disability and Rehabilitation Research for Fiscal Year 1988

Purpose: On December 17, 1987, NIDRR published in the **Federal Register** (52 FR 47959) a notice establishing February 22, 1988 as the closing date for transmittal of applications for new awards under the Research Fellowships program. However, NIDRR is extending the closing date for transmittal of applications under that program to February 29, 1988. NIDRR intends to award approximately eight Merit and eight Distinguished Fellowships, as described in the regulations governing this program.

Deadline for Transmittal of Applications: February 29, 1988.

Applications Available: February 10, 1988. *Available Funds:* $465,000

Estimated Range of Awards: $25,000 for Merit Fellowships; $30,000 for Distinguished Fellowships; $1500 for fellowship expenses in each category.

Project Period: 12 months.

Applicable Regulations: National Institute of Disability and Rehabilitation Research Regulations, 34 CFR Part 356.

For Applications or Information Contact: Louise Chappell, National Institute of Disability and Rehabilitation Research, U.S. Department of Education, 400 Maryland Avenue, SW., Switzer Building, Room 3070, United States 20202. Telephone: (202) 732–1184; deaf and hearing impaired individuals may call (202) 732–1198 for TTY services.

Program Authority: 29 U.S.C. 761a(d).

Dated: February 5, 1988.

Madeleine Will,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 88–2938 Filed 2–10–88; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 87–63–NG]

National Steel Corp.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application for blanket authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on November 13, 1987, of an application from National Steel Corporation (National) for blanket authorization to import Canadian natural gas for use at its Great Lakes Steel facility at Ecorse and River Rouge, Michigan. Authorization is requested to import up to 67,000 Mcf per day and up to 50 Bcf over a two-year term beginning on the date of first delivery. National proposes to purchase natural gas from various Canadian suppliers, including producers, marketers and pipelines, and import it through a 12-inch pipeline it proposes to build under the Detroit River between its Great Lakes Steel property and the Union Gas Limited mainline in Windsor, Ontario. On January 28, 1988, National filed an amendment to its application in which it proposes to import the gas through a 16-inch pipeline instead of a 12-inch pipeline as originally proposed. National also states that since its application was filed, it has entered into a spot market contract to purchase Canadian natural gas from Hunter Exploration Ltd. at the rate of 10,000 MMBtu per day for 60 days at a competitive market price.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than March 14, 1988.

FOR FURTHER INFORMATION CONTACT:

Stanley C. Vass, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA–076, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–1302;

Diane J. Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Great Lakes Steel is a steelmaking division of National, having places of business in Illinois, Indiana, Michigan, Minnesota and Pennsylvania. National is fifty percent owned by National Intergroup, Inc., a Delware corporation, and fifty percent owned by Nippon Kokan K.K., a Japanese corporation.

National expects that the proposed under river crossing would have no significant environmental impact as the above ground facilities would be located on existing industrial property in Canada and the United States. National has filed an application with the FERC for siting, construction and operating approval and will apply for a Presidential Permit and such other necessary authorizations from the Army Corps of Engineers and the United States Coast Guard. National will advise the ERA of the date of first delivery of the import and submit quarterly reports giving details of individual transactions.

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is

competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

All parties should be aware that if the ERA approves this requested blanket import, it may designate a total amount of authorized volumes for the term rather than a daily annual limit, in order to provide the applicant with maximum flexibility for operation.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076, RG–23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478). They must be filed no later than 4:30 p.m. e.s.t., March 14, 1988.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as neccesary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference or a hearing. A request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of National's application is available for inspection and copying in the Natural Gas Division Docket Room, GA–076, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, February 3, 1988.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88–2979 Filed 2–10–88; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. TA88–1–1–002]

Alabama-Tennessee Natural Gas Co.; Proposed PGA Rate Adjustment

February 5, 1988.

Take notice that on January 29, 1988, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), Post Office Box 918, Florence, Alabama, 35631, tendered for filing as part of its FERC Gas Tariff the following tariff sheet:

Substitute Third Revised Sheet No. 4

This tariff sheet is proposed to become effective January 1, 1988. Alabama-Tennessee states that the purpose of this filing is to reflect a change in rates filed by Tennessee Gas Pipeline Company in accordance with the Commission's Order of December 29, 1987.

Alabama-Tennessee has also tendered for filing the following tariff sheet:

Substitute Alternate Third Revised Sheet No. 4

According to Alabama-Tennessee, this alternate tariff sheet is being filed in compliance with the Commission's December 29, 1987 letter order and reflects the base tariff rates which are to be effective when the rates of Tennessee Gas Pipeline Company reflect the modified fixed variable methodology. An effective date of January 1, 1988 is proposed for this tariff sheet. Alabama-Tennessee states that it is also correcting a minor error in the carrying charge entry for the month of February, 1987.

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional customers and affected State Regulatory Commissions.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 12, 1988. 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. 88–2948 Filed 2–10–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CS72–419–001, et al.]

Amax Oil & Gas Inc. (Amax Petroleum Corp.), et al.; Applications for Small Producer Certificates[1]

February 5, 1988.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the Commission's Regulations thereunder for a small producer certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 22, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the commission will

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

Docket No.	Date filed	Applicant
CS72-419-001	[1] 12-31-87	Amax Oil & Gas Inc. (Amax Petroleum Corporation), P.O. Box 42806, Houston, TX 77042.
CS73-568-001	[2] 6-26-87	Primary Fuels, Inc. (Frontier Fuels, inc., a Delaware Corporation), P.O. Box 569, Houston, TX 77001.
CS77-262-001	[3] 1-15-88	Ergon, Inc., and Ergon Exploration, Inc. (Ergon, Inc.), P.O. Box 4761, Monroe, LA 71221-4761.
CS80-138	[4] 11-23-87	E. Gene McKinney, as Testamentary Trustee under the Will of Emmett Jarrett Kelly, Deceased (Emmett Jarrett Kelly), 517 Capitol Federal Bldg., 700 Kansas Avenue, Topeka, KS 66603.
CS84-13-001	[5] 1-6-88	John A. Vance, DBA Vance Production Company and Vance Resources, Inc. (Vance Oil & Gas, Inc.), P.O. Box 2, Perryton, TX 79070.
CS87-38-001	[6] 12-14-87	Pipeline Marketing Company (Pipeline Service Company), 2800 Gulf Tower, Pittsburgh, PA 15219.
CS87-104-000	11-20-87	Thomas P. Metcalf, P.O. Box 126, Hooker, OK 73945.
CS88-16-000	12-4-87	MFP Petroleum Limited, Partnership, 430 N.W. 5th Street, Oklahoma City, OK 73102.
CS88-19-000	11-27-87	Bob & Son Oil Co., P.O. Box 578, Hennessey, OK 73742.
CS88-20-000	12-7-87	PetroCorp, *et. al.*,[7] 16800 Greenspoint Park Drive, Suite 300, North Atrium, Houston, TX 77060.
CS88-21-000	12-10-87	Omimex Petroleum, Inc., 8055 E. Tufts Avenue Parkway, Suite 1060, Denver, CO 80237.
CS88-22-000	12-11-87	Vanguard Oil & Gas, Inc., P.O. Box 7474, Houston, TX 77248.
CS88-23-000	12-11-87	Chesapeake Production Company, P.O. Box 18496, Oklahoma City, OK 73154.
CS88-24-000	12-14-87	Big Lake JJ Oil & Gas, Inc., P.O. Box 127, Big Lake, TX 76932.
CS88-25-000	12-28-87	Comanche Operating Company, Inc., P.O. Box 5473, Shreveport, LA 71135.
CS88-27-000	12-31-87	Neal Oil Co., Rt. 3, Box 455, Marshall, TX 75670.
CS88-28-000	1-6-88	Siete Petroleum Corporation, 300 W. Texas, Suite 704, Midland, TX 79701.
CS88-29-000	1-7-88	Hanson Corporation, P.O. Box 1269, Midland, TX 79702.
CS88-30-000	1-13-88	Alexander Energy Corporation, 501 N.W. Expressway, Suite 600, Oklahoma City, OK 73118.
CS88-31-000	1-12-88	Joe R. Stewart & Kenneth Boss dba M & B Petroleum, P.O. Box 755, Hobbs, NM 88241.
CS88-32-000	1-14-88	Minden Gas Unit Operations, Inc., HC-62, Box 568, Princeton, LA 71067.
CS88-33-000	1-15-88	Estacado, Inc., P.O. Box 5587, Hobbs, NM 88241.
CS88-34-000	1-19-88	First Republic Bank, Wichita Falls, Executor John & Alice Beaton Estates, P.O. Box 60, Wichita Falls, TX 76307.
CS88-35-000	1-20-88	J. Brex Company, 7201 I-40 West, Suite 321, Amarillo, TX 79106.
CS88-36-000	1-21-88	OTC Petroleum Corporation, P.O. Box 27016, Oklahoma City, OK 73127.
CS88-37-000	1-26-88	Sirgo-Collier, Inc., P.O. Box 3531, Midland, TX 79702.
CS88-38-000	1-28-88	Horseshoe Operating, Inc., 511 West Texas, Midland, TX 79701.

[1] By letter dated December 14, 1987, Applicant stated that Amax Oil & Gas Inc. (AOG), which was incorporated on October 30, 1987, was formed for the specific purpose of owning and operating all of the domestic oil and gas properties previously owned and operated by Amax Petroleum Corporation (APC). Applicant further stated that effective December 31, 1987, APC would assign all of its domestic interests to AOG and APC would then cease all sales of gas in interstate commerce. Applicant requests substitution of AOG for APC as holder of the small producer certificate in Docket No. CS72-419.

[2] By letter dated June 22, 1987, Applicant states that Frontier Fuels, Inc., a Delaware Corporation (FFI) merged into its parent Primary Fuels, Inc. (PFI) as of December 30, 1986. Applicant states that FFI ceased to exist as a corporate entity and all of FFI's operations are now being conducted under the name of PFI. Applicant requests that FFI's small producer certificate in Docket No. CS73-568-001 be amended to reflect PFI as the small producer certificate holder.

[3] Letter dated December 28, 1987, requesting redesignation of small producer certificate.

[4] By letter dated November 17, 1987, Applicant states that Emmett Jarrett Kelly died on April 26, 1986, and that all payments by El Paso are being made to the Emmett Jarrett Kelly Trust. Applicant requests that the small producer certificate issued in Docket No. CS80-138 be redesignated under the name of E. Gene McKinney, as Testamentary Trustee under the Will of Emmett Jarrett Kelly, Deceased.

[5] By letter dated November 6, 1987, received November 28, 1987, as supplemented by letter dated December 30, 1987, Applicant states that on April 30, 1987, Vance oil & Gas, Inc., was liquidated. Applicant requests redesignation of small producer certificate under the name of John A. Vance, DBA Vance Production Company and Vance Resources, Inc.

[6] By letter dated November 5, 1987, Applicant states that Merex, Inc., the parent company of both Pipeline Service and Pipeline Marketing, has recently been restructured, resulting in Pipeline Service being dissolved and its assets assigned to the parent, Merex, Inc. Applicant states that Pipeline Marketing was created to market Meridian Exploration Company's natural gas and to perform third party transportation and sales agreements. Applicant states that some of these functions were previously conducted by Pipeline Service. Meridian has a small producer certificate in Docket No. CS73-428. Applicant requests that the small producer certificate in Docket No. CS87-38-000 be redesignated to reflect Pipeline Marketing Company as small producer certificate holder.

[7] The *et. al.* parties are: PetroCorp Private Drilling Limited Partnership 1983-1; PetroCorp Private Drilling Ltd. 1984-1; PetroCorp Private Drilling Ltd.1984-2; PetroCorp Private Drilling Ltd. 1985-1; PetroCorp Reserve Acquisition Fund, Ltd. I; Trust dated November 23, 1983, for the Benefit of Pamela C. Harriman; Hillside Syndicate.

[FR Doc. 88-2949 Filed 2-10-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-1-63-000]

Carnegie Natural Gas Co.; Proposed Changes in FERC Gas Tariff

February 5, 1988.

Take notice that Carnegie Natural Gas Company ("Carnegie") on February 1, 1988, tendered for filing as a part of its FERC Gas Tariff, First Revised Volume No. 1, six copies each of the following revised tariff sheets:

Fifth Revised Sheet No. 47
Fifth Revised Sheet No. 48
First Revised Sheet No. 89
First Revised Sheet No. 90

Carnegie states the above revised tariff sheets are being issued to reflect a decrease in purchased gas cost Carnegie has experienced from its pipeline supplier, Texas Eastern Transmission Corporation ("TETCO"), and from a modification of purchase pattern in its producer purchases. The effect of such cost is to decrease its demand component from $10.0064/Dth to $9.9924/Dth and its commodity component form $2.6412 to $2.6358, the combined effect of which results in an overall decrease of its LVWS Rate. Carnegie's current interruptible rate of $2.9702/Dth is likewise decreased to $2.9644 for its LVIS Rate.

Carnegie also requests a change in its deferral period for Account 191 activity. Due to the seasonal fluctuations in Carnegie's sales activity, Carnegie requests the use of a twelve-month deferral period.

The proposed effective date of the above tariff sheets is March 1, 1988.

Carnegie respectfully requests waiver of any provisions of its tariff, and any Regulations that the Commission may deem necessary to accept the above tariff sheets to be effective March 1, 1987, so as to have said rate change commence on the first day of a billing period.

Copies of the filing were served on Carnegie's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before February 12, 1988. Protests will be considered by the Commisison 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. 88-2950 Filed 2-10-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-1-22-000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 5, 1988.

Take notice that CNG Transmission Corporation (CNG), formerly Consolidated Gas Transmission Corporation, on January 29, 1988, filed the following revised tariff sheets all to First Revised Volume No. 1 of its tariff:

Second Revised Sheet No. 31
First Revised Sheet Nos. 1, 34, 100 and 150 through 167

CNG states that it has included in its filing:

(a) An increase in the current commodity cost of gas of 12.87 cents per dekatherm, an increase of 6.0 cents per dekatherm of D-1 demand, and an increase of 0.24 cents per dekatherm of D-2 demand;

(b) A credit of 28.58 cents per dekatherm commodity and 2.0 cents per dekatherm in the D-1 demand charge to flow through supplier refunds.

As part of its filing, CNG states that it has revised section 12 of its tariff (PGA clause) and has eliminated section 12A to reflect the repeal of incremental pricing.

Copies of the filing were served upon CNG's sales customers as well as interested state commissions.

CNG states that concurrently with these PGA changes, CNG also includes a separately stated rate surcharge to recover its funding of take-or-pay payments made by Tennessee Gas Pipeline Company under the procedures approved in the Commission's Order issued on April 16, 1985, in *Columbia Gas Transmission Corporation vs. Tennessee Gas Pipeline Company, et al.*, in Docket Nos. RP83-8, *et al.* The take-or-pay surcharge is 0.02 cents per dekatherm.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All motions or protests should be filed on or before February 12, 1988. 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. 88-2951 Filed 2-10-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER88-77-000 et al.]

Duke Power Co. et al.; Electric Rate and Corporate Regulation Filings

February 4, 1988.

Take notice that the following filings have been made with the Commission:

1. Duke Power Company

[Docket No. ER88-77-000]

Take notice that on February 1, 1988, Duke Power Company (Duke) tendered for filing an amendment to its Application filed in the above-referenced docket. The filing was made in response to a Deficiency Letter dated December 14, 1987. Cost support for the rates to be charged Nantahala under the Interconnection Agreement has been provided.

Nantahala Power and Light Company has filed a Certificate of Concurrence in lieu of the filing of the rate schedule specified.

Comment date: February 18, 1988, in accordance with Standard Paragraph E at the end of this notice.

2. Wisconsin Electric Power Company

[Docket No. ER88-150-000]

Take notice that on February 1, 1988, Wisconsin Electric Power Company (Wisconsin Electric) tendered for filing an amendment to its filing in the above-referenced docket. The filing was made in response to an information request from the Division of Electric Power Application and Review. Cost support for Schedule G of the Wisconsin Electic-Upper Peninsula Power Company Interconnection Agreement was provided.

Wisconsin Electric requests an effective date of January 1, 1988.

Copies of the filing have been served on Upper Peninsula Power Company, the Public Service Commission of Wisconsin, and the Michigan Public Service Commission.

Comment date: February 18, 1988, in accordance with Standard Paragraph E at the end of this document.

3. Black Hills Power and Light Company, an assumed business of Black Hills Corporation

[Docket No. ER88-222-000]

Take notice that on February 1, 1988, Black Hils Power and Light Company, an assumed business name of Black Hills Corporation (Black Hills) tendered for filing the Restated Electric Power and Energy Supply and Transmission Agreement, Dated as of December 21, 1987 (New Agreement), between Black Hills and the City of Gillette, Wyoming (Gillette), in replacement of and to supersede the Electric Power and Energy Supply and Transmission Agreement, dated August 6, 1985 between Black Hills and Gillette filed with the Commission and designated Black Hills Power and Light Company, Rate Schedule FERC No. 29 and Supplement No. 1 to Rate Schedule FERC No. 29. As a further supplement to the above Rate Schedule, Black Hills also tenders for filing the Second Amendment to Coal Supply Agreement, dated November 2, 1987 as an amendment to Black Hills Power and Light Company Supplement No. 2, Rate Schedule FERC No. 27 (as now designated).

The New Agreement provides for changes in the quantity of power and energy to be sold Gillette, for a phased in increase in the Energy Charge therefor and other minor changes.

Black Hills requests waiver of the Commission's Notice requirements to permit this rate schedule to become effective December 21, 1987, the date of the New Agreement.

Copies of the filing were served upon the parties to the New Agreement, the South Dakota Public Utilities Commission, the Wyoming Public Service Commission and the Montana Public Service Commission.

Comment date: February 18, 1988, in accordance with Standard Paragraph E at the end of this notice.

4. Black Hills Power and Light Company, an assumed business name of Black Hills Corporation

[Docket No. ER88-223-000]

Take notice that on February 1, 1988, Black Hills Power and Light Company, an assumed business name of Black Hills Corporation (Black Hills) tendered for filing an agreement between Black Hills and the City of Gillette, Wyoming which provides for the restatement and amendment of the Seasonal Non-Firm Power Sale Agreement with Gillette, filed as Black Hills' Rate Schedule FERC No. 28 and three Supplements thereto.

The reasons for the proposed rate schedule changes are to modify the term and to conform to a restated and amended long-term power sale agreement between Black Hills and Gillette submitted for filing with the Commission under a separate docket.

Copies of the filing were supplied to the City of Gillette, Wyoming and the regulatory commissions of the states of Wyoming, South Dakota and Montana.

Comment date: February 18, 1988, in accordance with Standard Paragraph E at the end of this notice.

5. Wisconsin Electric Power Company

[Docket No. ER88-160-000]

Take notice that on January 29, 1988, Wisconsin Electric Power Company (Wisconsin Electric) tendered for filing an amendment to its filing in the above-referenced docket. The filing was made in response to an information request from the Division of Electric Power Application and Review. The derivation of the revised capacity charge for Transaction No. 2 of the assigned power sales agreement between Wisconsin Electric and Wisconsin Public Power Inc. SYSTEM (WPPI SYSTEM) was provided.

Wisconsin Electric requests an effective date of January 1, 1988.

Copies of the filing have been served on WPPI SYSTEM, the Public Service Commission of Wisconsin, and the Michigan Public Service Commission.

Comment date: February 18, 1988, 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 NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-2947 Filed 2-10-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-15-000]

Mid Louisiana Gas Co.; Proposed Change of Rates

February 5, 1988.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on January 29, 1988, tendered for filing as part of First Revised Volume No. 1 of its FERC Gas Tariff the following tariff sheets to become effective March 1, 1988:

Superseding

Sixty-Second Revised Sheet No. 3a
Substituted Sixty-First Revised Sheet No. 3a
Sixteenth Revised Sheet No. 3c
Fifteenth Revised Sheet No. 3c
Eighth Revised Sheet No. 26b
Seventh Revised Sheet No. 26b
Sixth Revised Sheet No. 26c
Fifth Revised Sheet No. 26c
Fifth Revised Sheet No. 26d
Fourth Revised Sheet No. 26d
Second Revised Sheet No. 26d.1
First Revised Sheet No. 26d.1
Second Revised Sheet No. 26d.2
First Revised Sheet No. 26d.2
Second Revised Sheet No. 26d.3
First Revised Sheet No. 26d.3

Mid Louisiana states that the purpose of the filing of Sixty-Second Revised Sheet No. 3a is to reflect a 34.73¢ per Mcf increase in its gas cost, and a Purchased Gas Cost Surcharge of (1.59¢) per Mcf.

Mid Louisiana states that the purpose of the remaining tariff sheets is to eliminate the Incremental Pricing Provisions of Mid Louisiana's FERC Gas Tariff pursuant to the provisions contained in Bill No. 1941 passed by the House of Representatives on May 7, 1987.

Mid Louisiana states that this filing is being made in accordance with section 19 of Mid Louisiana's FERC Gas Tariff. Copies of this filing have been mailed to Mid Louisiana's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to

intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before February 12, 1988. 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. 88-2952 Filed 2-10-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-5-5-000]

Midwestern Gas Transmission Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

February 5, 1988.

Take notice that on January 29, 1988 Midwestern Gas Transmission Company (Midwestern) tendered for filing. Thirty-First Revised Sheet No. 5 to Original Volume No. 1 of its FERC Gas Tariff, and requested appropriate waivers so that the rates can be effective February 1, 1988. This revised tariff sheet reflects an out-of-cycle PGA adjustment to its Southern System rates.

Midwestern states the current Purchased Gas Cost Rate Adjustment reflected on Thirty-First Revised Sheet No. 5 consist of an increase of 3.46 cents per dekatherm applicable to the gas component of Midwestern's sales rates. Midwestern states that this adjustment reflects an increase in the purchased gas cost of Midwestern resulting from adnormally high throughput.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before February 12, 1988. 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. 88-2953 Filed 2-10-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-2-25-000]

Mississippi River Transmission Corp; Rate Change Filing

February 5, 1988.

Take notice that on January 29, 1988 Mississippi River Transmission Corporation ("Mississippi") tendered for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Tariff sheet	Proposed effective date
Twenty-Second Revised Sheet No. 4	March 1, 1988.
Ninth Revised Sheet No. 42	March 1, 1988.
Sixth Revised Sheet No. 50	January 1, 1988.

Mississippi states that the filing is being submitted pursuant to the Purchased Gas Cost Adjustment (PGA) Clause of its tariff to track pipeline and producer cost changes, and to recover gas costs which have accumulated in its Unrecovered Purchase Gas Cost Account. Mississippi states that the filing also contains revisions to its PGA tariff provisions to allow for the recovery of fixed take-or-pay charges directly billed by its pipeline suppliers. Mississippi states the filing reflects an increase under Rate Schedule CD-1 of $1.512 per Mcf in Demand Charge D-1, an increase of $0.201 per Mcf in the Demand Charge D-2 and a commodity rate decrease of $1.483 per Mcf. The single part rate under Rate Schedule SGS-1 reflects an overall increase of $.0181 per Mcf. The overall cost impact of such rate changes when applied to annual jurisdictional billing determinants is a decrease of $1.1 million.

Mississippi states that copies of its filing have been served on all jurisdictional customers and interested state commissions. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, DC 20426, in accordance with sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 35.211, 385.214). All such motions or protests should be filed on or before February 12, 1988. 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. 88-2954 Filed 2-10-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP87-92-001, et al.]

Texas Eastern Transmission Corp., PennEast Gas Services Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Texas Eastern Transmission Corporation, PennEast Gas Services Company

[Docket No. CP87-92-001]

February 3, 1988.

Take notice that on January 15, 1988, Texas Eastern Transmission Corporation (Texas Eastern) and PennEast Gas Services Company (PennEast), jointly referred to as Applicants, Post Office Box 2521, Houston, Texas 77252, filed in Docket No. CP87-92-002 an amendment to the joint application filed November 24, 1986 in Docket No. CP87-92-000, as amended February 9, 1987 in Docket No. CP87-92-001, pursuant to sections 7(b) and 7(c) of the Natural Gas Act, to reflect a modification of the capacity utilization, ownership structure, and design of the proposed facilities for which authorization to construct and operate was sought in Docket No. CP87-92-000, as amended, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicants state that the pipeline facilities for which authorization was requested in Docket No. CP87-92-000 were comprised of 316 miles of new pipeline and 63,000 horsepower (HP) additional compression. Applicants further state that the First Amendment to the original application sought to substitute an alternate facility, consisting of additional compression at Texas Eastern's Compressor Station 26, for the Hanover Loop originally proposed by the original application.

It is indicated that, in the original application, as amended, pipeline

capacity made available by the construction of the proposed facilities was to be utilized as follows:

	Dt equivalent per day	
	First year	Second year
Texas Eastern:		
Capacity restoration	554,282	554,282
Rate schedule SS capacity	102,130	102,130
SS-II, phase V storage	23,115	23,115
CNG/Baltimore/ Washington transport	120,000	120,000
New storage service	—	100,000
PennEast SS-I service	100,000	245,000
Total	899,527	1,144,527

Applicants request authorization to utilize the capacity made available as a result of the construction of facilities proposed, as amended by this proposal herein, as follows:

	Dt equivalent per day	
	1988	1989
Texas Eastern:		
Capacity restoration	554,282	554,282
Rate schedule SS capacity	—	102,130
CNG/Baltimore/ Washington transport	80,000	80,000
PennEast:		
SS-I (Phase II)	126,000	145,000
PSS-I (Phase I)	—	100,000
Total	760,282	981,412

Applicants indicate that the modifications herein were requested in light of the following events:

(1) Prior to filing the application in this proceeding, Applicants had filed applications in Docket Nos. CP87-4-000 and CP87-28-000 for alternate facilities on Texas Eastern's Penn-Jersey system to implement the PennEast SS-I service and the Texas Eastern SS-II Phase V storage delivery. Further, Texas Eastern had earlier received authorization in Docket No. CP85-806-000 (36 FERC ¶ 61,273) to construct facilities (together with transportation authorization) on its Penn-Jersey system to implement the CNG/Baltimore/Washington transport, but had deferred with Commission approval the acceptance of the certificate. In light of unforeseen delays in processing of the Applicants' application herein and resolution of related environmental issues, Applicants determined to implement the three aforementioned services on the Penn-Jersey system as originally contemplated. Accordingly, Applicants communicated to the Commission their desire that it resume processing the applications in Docket Nos. CP87-4-000, as to Phase I, and CP87-28-000. Further, Texas Eastern anticipates accepting the certificate in Docket No. CP85-806-000 and commencing construction in 1988.

(2) As part of the decision to proceed with implementing Phase I of the PennEast SS-I service on the Penn-Jersey system, PennEast on November 2, 1987 withdrew Phase II of the application in CP87-4-000 and at the same time advised the Commission of its intention to pursue Phase II (145,000 dt per day) through the capacity restoration facilities to be constructed in 1988 and 1989 as proposed herein.

(3) On December 11, 1987, CNG Transmission Corporation (CNG) filed with the Commission an application in Docket No. CP88-128-000 to increase its sale to Baltimore Gas and Electric Company and Washington Gas Light Company from the previously authorized 120,000 dt per day to 200,000 dt per day commencing November 1, 1988. Texas Eastern would concurrently file an application to render 80,000 dt per day of additional transportation service to CNG by means of the capacity provided by the facilities proposed herein. This portion is part of the capacity previously earmarked for the 120,000 dt per day CNG/Baltimore/ Washington transport which would now be rendered by means of facilities constructed on the Penn-Jersey system.

(4) On April 30, 1987, PennEast filed with the Commission in Docket No. CP87-312-000 an application to render a firm storage (and transportation) service under a new Rate Schedule PSS utilizing the 100,000 dt per day capacity designated as Texas Eastern—"new storage service" in the original application.

Applicants state that they fully intend to timely resolve the remaining issues in this proceeding in order to place facilities in service by November 1, 1988.

Applicants requested authorization to amend their application, as previously amended in Docket No. CP87-92-001, to reflect the following changes in facilities for which they request Commission authorization:

Phase I (previously designated 1987, now proposed 1988):

Delete 7.25 miles of 36-inch pipeline at the discharge of Texas Eastern's Bechtelsville Station in Pennsylvania.

Delete 4,000 HP of compression facilities to be installed on Texas Eastern's Leidy Line in Centre County, Pennsylvania.

Advance from Phase II to Phase I construction of the Bridgewater meter station and the meter station modifications at M&R's 058, 1075, and 1078.

Phase II (previously designated 1988, now proposed 1989):

Delete one of two proposed 11,000 HP gas turbine/compressor units at Station 21-A.

Delete the 11,000 HP gas turbine/ compressor unit at Station 23.

Reduce from 18,200 HP to 13,200 HP compression additions and upgrades at Station 26.

Delete the request for abandonment of four reciprocating units at Station 26.

Reduce the 36-inch pipeline on the discharge of Station 25 from 9.50 miles to 7.50 miles.

Applicants submit that the estimated total capital cost of the Capacity Restoration Program as amended herein is $478,973,000.

Applicants state that the Joint Ownership Agreement, submitted as Exhibit M in the original application, set forth the respective rights and responsibilities of Texas Eastern and PennEast as owners and as tenants in common of certain facilities. Applicants further state that, pursuant to the Joint Ownership Agreement, Texas Eastern and PennEast would each be entitled to utilize a portion of the "Effective Capacity" of the jointly owned facilities equal to its ownership percentage. It is indicated that the operation and maintenance costs of the jointly owned facilities would be shared by Texas Eastern and PennEast based upon their respective cost allocation factors in these facilities. It is further indicated that these cost allocation factors would be identical to the proportions of ownership of the facilities jointly-owned by Texas Eastern and PennEast.

Applicants request to amend their original application, as amended, to reflect Texas Eastern and PennEast as joint owners, pursuant to the Joint Ownership Agreement, in the proposed facilities as amended herein in the following proportions:

	Penn-East (percent)	Texas Eastern (percent)
1988		
Pipeline:		
Station 21-A to 23	16.573	83.427
Station 23 to 25	18.522	81.478
1989		
Pipeline:		
Station 21-A to 23	24.838	75.162
Station 23 to 25	27.040	72.960
Station 25 to 26	27.040	72.960

It is explained that, in the Original Application, as first amended, PennEast agreed to reimburse certain costs incurred by Texas Eastern for the facilities. It is further explained that

PennEast included these costs in its rate base for the purpose of calculating the illustrative PennEast rates. However, since the filing of the Original Application, Applicants state that a review of the Tax Reform Act of 1986 indicated that certain tax penalties would occur as a result of the ownership arrangement proposed therein. Applicants further state that, under the Tax Reform Act, the contribution proposed to be made by PennEast to Texas Eastern would be treated as taxable income to Texas Eastern, and the resulting additional Federal income tax would impose an additional cost burden on the project.

Applicants submit that the project sponsors agreed to a restructuring of the agreements, to provide for outright ownership by PennEast in lieu of the originally proposed contributions to Texas Eastern. Applicants further submit that pursuant to a Joint Ownership and Gas Compression and Metering Agreement, which will be filed as a supplement, PennEast would own the following facilities:

	PennEast (percent)	Texas Eastern (percent)
1988		
Pipeline:		
Station 26 to 27	100.0	0
Compression:		
Station 23-aerodynamic assembly changeouts	16.573	83.427
Measuring & Regulating:		
Expansion-M&R's 058, 1075, & 1078	100.0	0
Bridgewater M&R	100.0	0
1989		
Pipeline:		
Station 26 to 27	77.070	22.930
Compression:		
Station 21-A—11,000 HP unit	24.838	75.162
Station 23-aerodynamic assembly changeouts	27.040	72.960
Station 26-11,000 HP unit & upgrading existing units	100.0	0
Measuring & Regulating:		
Expansion-M&R's 058, 1075, & 1078	100.0	0
Bridgewater M&R	100.0	0

It is indicated that Texas Eastern would, on behalf of PennEast, operate the above facilities pursuant to the terms of a Joint Ownership and Gas Compression and Metering Agreement between PennEast and Texas Eastern. It is further indicated that Texas Eastern would charge PennEast for the incremental operation and maintenance expenses incurred by Texas Eastern. Texas Eastern requests that the rates shown in Exhibit P(4) in this proceeding be accepted as initial rates for such compression and metering service.

It is noted that Applicants filed this application within the time frame of the open-access season announced by the Commission in Docket No. CP87–451–000, concerning projects to supply natural agas to the Northeast U.S.

Comment date: February 24, 1988, in accordance with the first subparagraph F at the end of this notice.

El Paso Natural Gas Company

[Docket No. CP88–162–000]
February 4, 1988.

Take notice that on January 13, 1988, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP88–162–000, a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon certain miscellaneous minor gas sales facilities and services, under the authorization issued in Docket No. CP82–435–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

El Paso proposes to abandon four miscellaneous minor gas sales facilities with associated appurtenances and the related natural gas services listed in the appendix herein. Additionally, El Paso proposes to abandon natural gas sales services to the City of Safford, Arizona (Safford) at the Safford Power Plant, since these facilities are owned and operated by Safford and would continue to be utilized for gas service to Safford (see Appendix). El Paso states that it periodically reviews, among other things, the operating status of such facilities situated on its pipeline system and with the customer's advisement indicates those facilities eligible for abandonment.

El Paso states it would remove and place in stock the salvable materials and scrap the non-salvable items of the facilities to be abandoned, without material change in its average cost-of-service. The proposed abandonments would not result in or cause any interruption, reduction or termination of natural gas service presently rendered by El Paso to any of its customers, it is indicated. El Paso states it has examined the abandonment action proposed and finds that the adverse environmental effects of each action, if any, would be minor and of a temporary nature and that El Paso's applicable reclamation procedures would be followed where appropriate.

Comment date: February 25, 1988, in accordance with Standard Paragraph F at the end of this notice.

EL PASO NATURAL GAS COMPANY INDEX

Certain Existing Miscellaneous Minor Gas Sales Facilities for Which El Paso Seeks Abandonment Authorization

Name	Facilities proposed to be abandoned	Location	Pipeline	Certificate authorization	Distributor
1. Adams, J. S. Tap	Dual 1" O.D. Taps	Section 33, Township 12 South, Range 12 East, Pima County, AZ.	10¾" O.D. Line from El Paso-Douglas Line to Guadalupe Regulator Station and 10¾" O.D. Loop Line from El Paso-Douglas Line to Guadalupe Regulator Station.	G-288	Southwest Gas Corp.
2. Flaccus, Bliss Tap	Dual 1" O.D. Taps	Section 16, Township 16 South, Range 16 East, Pima County, AZ.	10¾" O.D. Line from El Paso-Douglas Line to Guadalupe Regulator Station and 10¾" O.D. Loop Line from El Paso-Douglas Line to Guadalupe Regulator Station.	G-288	Southwest Gas Corp.
3. Mr. Baldwin Tap	Single 1" O.D. Tap	Section 449, Block G, C.C.S.D. & R.G.N.G. Survey, Gaines County, TX.	24" O.D. Line from Dumas Plant to Eunice Plant.	CP69-23	Westar Transmission Co.

EL PASO NATURAL GAS COMPANY INDEX—Continued

Certain Existing Miscellaneous Minor Gas Sales Facilities for Which El Paso Seeks Abandonment Authorization

Name	Facilities proposed to be abandoned	Location	Pipeline	Certificate authorization	Distributor
4. Merritt, Will Tap	Dual 1" O.D. Taps	Section 6, Township 2 South, Block 119, Public School Land Survey, Hudspeth County, TX.	16" O.D. LIne from Jal Plant to El Paso City Gate No. 1 and 16" O.D. Loop Line from Jal Plant to Clint Junction.	2.55(c)	Southern Union Gas Co.
5. Safford Power Plant	Facilities owned by city of Safford [1].	Section 20, Township 7 South, Range 26 East, Graham County, AZ.	6⅝" O.D. Line from Maricipa County Line to Prescott, AZ.	G-288	City of Safford, AZ.

[1] The facilities are owned and operated by the City of Safford and continue to be utilized for gas service to the City. El Paso requests abandonment of the service to the Safford Power Plant only, which was previously served through such facilities.

3. Panhandle Eastern Pipe Line Company

[Docket No. CP88-207-000]

February 4, 1988.

Take notice that on January 25, 1988, Panhandle Eastern Pipe Line Company (Panhandle), P.O. 1642, Houston, Texas 77001, filed in Docket No. CP88-207-000 an application pursuant to section 7(b) of the Natural Gas Act and the regulations of the Federal Energy Regulatory Commission for an order permitting and approving abandonment of an authorized transportation service on behalf of Kansas Power and Light Company (KG&L), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Panhandle specifically requests commission authorization to abandon the transportation service authorized in Docket No. CP84-153-000. Panhandle has included a letter dated May 16, 1985, indicating that KG&L no longer requires the service. Panhandle also states that upon receipt of the authorization sought herein, Panhandle would file to cancel its Rate Schedule T-59 of its FERC Gas Tariff, Original Volume No. 2.

Comment date: February 25, 1988, in accordance with Standard Paragraph F at the end of this notice.

4. Williams Natural Gas Company

[Docket No. CP61-29-001]

February 4, 1988.

Take notice that on January 11, 1988, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74102, filed in Docket No. CP61-29-001 a petition to amend the order issued March 10, 1961, in Docket No. CP61-29 pursuant to section 7(c) of the Natural Gas Act so as to authorize Williams to utilize its facilities to provide natural gas for all of the operations of the Atlas Powder Company (Atlas) plant in Jasper County, Missouri, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Williams states that the March 10, 1961, order authorized the construction of facilities to enable Williams to deliver direct sale gas to Atlas for use in the manufacture of ammonia and urea at what is known as the nitrogen section of Atlas' plant. It is stated that when the direct connection from Williams system to Atlas' facilities was constructed and put into service, different parts of the plant, known as the acid and explosives sections, were being served by one of Williams' resale customers, the Gas Service Company, now known as the Kansas Power and Light Company (KPL). Williams claims the connection between KPL and Atlas' facilities is located very near to the Williams Atlas interconnection.

Williams avers that the utilization of gas delivered through Williams' and KPL's facilities was originally very easily identified because gas delivered through Williams flowed to boilers located in the nitrogen section of Atlas' plant and gas delivered through KPL flowed to boilers located in the explosive section of Atlas' plant but that since 1986 the utilization of gas delivered from a particular source has been less well-defined because of internal modifications made by Atlas to its facilities.

It is stated that Atlas has requested Williams to supply Atlas gas for all of its plant operations. Williams believes that its delivery of its presently authorized volumes at the delivery point for use by Atlas is fully authorized by its certificate in Docket No. CP61-29, regardless of whether such gas is ultimately used to generate steam for either the nitrogen section or explosive section of the Atlas plant. However, to alleviate any potential ambiguity in Williams authorization, Williams states it is seeking an amendment to explicitly authorize it to deliver natural gas for all plant operations. Williams claims it has submitted this petition to amend in the event the Comission finds that its existing authorization does not permit it to serve all of Atlas' plant requirements.

Comment date: February 25, 1988, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

Standard Paragraph

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.111 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-2946 Filed 2-10-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA88-2-29-001 and TA88-3-29-000]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

February 5, 1988.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on January 29, 1988 tendered for filing certain revised tariff sheets included in Appendix A attached hereto.

Transco states that the purpose of this filing is to reflect the following rate adjustments to its currently effective underlying rates in order to (1) reflect a decrease of 0.01¢ per dt in the Gas Research Institute (GRI) Adjustment Charge, (2) track under Transco's LSS Rate Schedule National Fuel Gas Supply Corporation's and Consolidated Gas Transmission Corporation's Annual Charge Adjustment (ACA), (3) track in Transco's LSS rates the increased charges under Penn-York Energy Corporation's SS-1 Rate Schedule, and (4) track under Transco's S-2 Rate Schedule Texas Eastern Transmission Corportion's ACA.

Transco states the proposed effective dates of the tariff sheets included in Appendix A attached hereto are October 1, 1987, November 1, 1987 and January 1, 1988.

Transco further states that copies of the filing have been mailed to each of its customers and State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with 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 February 12, 1988. 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.

Appendix A—Revised Tariff Sheets

Second Revised Volume No. 1

Effective October 1, 1987:
Third Substitute Forty-Eighth Revised Sheet No. 12.
Effective November 1, 1987:
Third Substitute Forty-Ninth Revised Sheet No. 12.
Effective January 1, 1988:
Substitute Fiftieth Revised Sheet No. 12
Substitute Forty-Sixth Revised Sheet No. 15
Substitute Fourth Revised Sheet No. 19
Substitute Fourth Revised Sheet No. 20
Substitute Fourth Revised Sheet No. 21
Substitute Second Revised Sheet No. 22
Substitute First Revised Sheet No. 23
Substitute First Revised Sheet No. 24.

Original Volume No. 2

Effective January 1, 1988:
Substitute Seventh Revised Sheet No. 41-A
Substitute Third Revised Sheet No. 112-A
Substitute Seventh Revised Sheet No. 310-A
Substitute Seventh Revised Sheet No. 404-A
Substitute Thirteenth Revised Sheet No. 617-A
Substitute Seventh Revised Sheet No. 743-A
Substitute Tenth Revised Sheet No. 910-A
Substitute Thirteenth Revised Sheet No. 1018-A
Substitute Seventh Revised Sheet No. 2063-A
Substitute Sixth Revised Sheet No. 2118-A
Substitute Thirteenth Revised Sheet No. 2169-A
Substitute Tenth Revised Sheet No. 2541-A
Substitute Fourth Revised Sheet No. 2662-A
Substitute Fourth Revised Sheet No. 2694-A
Substitute Fourth Revised Sheet No. 2730-A
Substitute Fourth Revised Sheet No. 2743-A
Substitute Fourth Revised Sheet No. 2784-A

[FR Doc. 88-2955 Filed 2-10-88; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3326-9]

Proposed Settlement Under Section 122(g) of the Comprehensive Environmental Response, Compensation and Liability Act; Acme Laundry et al.

AGENCY: Environmental Protection Agency.

ACTION: Request for public comment.

DATE: Comments must be provided on or before March 14, 1988.

ADDRESS: Comments should be addressed to the Regional Administrator, U.S. Environmental Protection Agency, Region I, J.F.K. Federal Building, Boston, Massachusetts, 02203, and should refer to: In Re the Cannons Engineering Corporation Sites in Bridgewater, Massachusetts and Plymouth, Massachusetts, the Gilson Road Site in Nashua, New Hampshire, and the Tinkham's Garage Site in Londonderry, New Hampshire, U.S. EPA Docket No. 1-87-1094.

FOR FURTHER INFORMATION CONTACT: E. Michael Thomas, U.S. Environmental Protection Agency, Office of Regional Counsel, RRC-2203, J.F.K. Building, Room 2203, Boston, Massachusetts, 02203, (617) 565-3441.

Notice of De Minimis Settlement: In accordance with section 122(i)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1986, as amended (CERCLA), notice is hereby given of a proposed administrative settlement concerning the Cannons Engineering Corporation hazardous waste sites in Bridgewater and Plymouth, Massachusetts, the Tinkham's Garage hazardous waste site in Londonderry, New Hampshire, and the Gilson Road hazardous waste site in Nashua, New Hampshire. The agreement has been proposed by the Regional Administrator for EPA Region I on October 26, 1987. Subject to review by the public pursuant to this Notice, the agreement has been approved by the states of Massachusetts and New Hampshire, and by the United States Department of Justice, the United States Department of the Interior and the National Oceanic and Atmospheric Administration. Below are listed the parties who have executed Binding Letters of Intent committing to participate in the settlement:

Acme Laundry; Acushnet Saw Mills Co.; Advanced Materials Systems; Aerovox Industries, Inc.; Agway Petroleum; Alden Corrugated Container; Allen Manufacturing Co.; Aluminum Processing Corp.; American Airlines; American Biltrite Inc.; American Brush Inc.; Anderson Fuel, Inc.; Arkwright, Inc.; Ashworth Plastics Products Co.; Atlas Tack Corp.; Attleboro Mfg. Co.; Automatic Machine Products Co.; Baird Corp.; Barnstable D.P.W.; Barnstable Group; Barnstable High School; Barnstable Public School System; Barnstable Water Co.; Barnstable, Town of, Barnstable Dump; BASF Wyandotte Corporation; BAT; Bay State Gas Co.;

Bay Village; Beaver Builders, Inc.; Beebe Rubber Co.; Belding Chemical Industries; Benzenoid Organics; BIF Corp.; Bird & Son (Phillipsdale, RI); Bishop Feehan High School; Bishop Gerrard High School; Bishop Stang High School; Blackstone Valley School; Borden & Remington Co., Div. of Tillotson Co.; Boston Edison Co.; Boston Globe/General Printing Ink Co.; Boston Globe/Huber, J.M. Corp.; Boston Globe/U.S. Printing Co.; Boston Whaler Co.; Brant Point Vessel; Brewster, Town of, Old Brewster Elementary; Brick, K.F. Co.; Brittany Dyeing & Printing Corp.; Brockton Hospital; Browning Ferris Industries Group; C.J. Osborne Chemical; C.P.C. Engineering; California Paints; Cambridge Electric Light Co.; Canal Electric Co.; Cape Cod Regional High School; Cape Dory Yachts; Carlton Processing Co.; Carol Cable Co.; Chatham School Group; Chem-Graphic, Inc.; Chevron Group; Christy's Market; Cleveland Twist Drill Co.; Coastal Services, Inc. Group; Compo Industries, Inc.; Conrail; Container Corp. of America; Continental Screw Co.; Cooley Inc.; Cornell-Dubilier Electric Corp.; Cotuit Elementary School; Coyle & Cassidy High School; Coyne Industrial Laundries, Inc.; Cranston Printworks; Crosby Valve & Gauge Co.; Crown Cork & Seal Co.; Danielson Curtain Co., Inc.; Data Packaging Corp.; David Clark Company, Incorporated; Dennis, Town of, Water District; Dennis-Yarmouth School Group; Dennison Mfg. Co.; Dexter Corp.; C.H. Dexter Division; Donle's Tire & Appliances; E.A. Wilson Company; East Bridgewater Public Schools; Eastham Fire Dept.; Easton, MA, Town of; Easton, Charles A. Co.; Electric Sewer Cleaning Co., Inc.; Electronics Corp of America; Engelhard Minerals & Chemicals Corp.; Essex Group Co.; Exxon Co. Group; Farm Credit Service; Federal Products Corporation; First National Bank; Foster Grant Corp.; Foster Miller Associates; Frionor Kitchens, Inc.; GAF Corp.; General Motors Corp. Group; General Polymer, Inc.; General Printing Ink Co.; General Tire & Rubber-Bolta Products; Glen Oil; Globe #12 Barge-Vessel; Globe Manufacturing Co.; Goodyear Tire & Rubber Co.; Graphic Arts Finishers, Inc.; Gravely International, Inc.; Gray Textile Corp.; Great A & P Tea Co., Store #179 Orleans, MA; Great American Chemical Corp.; GTE Sylvania Inc.; Gulf Oil Co., East Providence, RI; Hancock Paint & Varnish Co.; Harris Corp.; Nashua, NH; Harris Graphics Corporation; Hartford-Universal Ball Co.; Harwick School Dept.; Hathaway Oil Co.; Haverhill Gas Company; Hermetite Corp.; High Voltage Engineering; Hilsinger Corp.; Hollingsworth & Vose; Hornig, Oscar H.; Huber, J. M. Corp. (Telegraph Publ.); Hull Public Schools; Hurley Packaging Co.; Hy-Line Harbor Tours; Hyannis Elementary School; Hyannis Harbor Tours; I.C.I. United States Inc.; IBM (E. Fishkill N.Y.); Industrial Machine Corp.; Ingersoll-Rand; J.P. Noonan Transportation Co.; Johnson & Johnson Group; Johnson Products; K.J. Quinn & Co., Inc.; Kaiser Aluminum & Chemical Corporation; Kalwall Corporation; L.G. Balfour Company Group; La Baron Foundry; Lawrence Print Works; Leavens Manufacturing Co., Inc.; Lindberg Heat Treating Co.; Liqwacon; Long Island Chronic Disease Hospital; MA Disposal Services Co.; MA State Quartermaster; MA, Commonwealth of, Metro District Commission; Madico, Inc.; Mansfield School Dept.; Marson Corp.; Massachusetts Institute of Technology; Mearl Corporation; Merrimack Industrial Finishes; Michelson's; Mid-Cape Ford; Midland Print Works; Milton Smith Oil Service; Mobil Oil Corp.; Wellfleet Service Center; Mobil Oil Corp. E. Boston, MA; Monomoy Fuel, Inc.; Mount Hope Machinery; Murray Carver Co.; Nashua Corp.; National Guard (MA) Group; Nauset Regional School District; New Bedford Gas & Edison Light Co.; New Bedford Gear Co.; New Bedford Thread Co., Inc.; New England Container Co.; New England Power Co.; New England Power Service Co.; New England Printed Tape Company; New England Telephone & Telegraph Co.; Newport Hospital; News Publishing Co. of Framingham, MA; NL Chemicals/NL Industries, Inc.; North American Phillips Lighting Corp.; North East Solvents Reclamation Corp.; Northeast Petroleum Group; Northeast Products; Northeast Utilities Service Co.; Norton Co.; Norwich Leather Co.; Odeco (U.K.) Inc.; Old Colony YMCA; Olin Corp.; Ornsteen Chemicals, Inc.; Our, Robert B. Co.; Owens-Illinois, Inc.; Penick Corporation; Perfection Oil Co., Inc.; Pharmasol Corp.; Pollak, Joseph Corp.; Pratt & Whitney Aircraft Group; Proctor & Gamble; Providence Gravure, Inc.; Providence Journal; Quincy & Company; Quincy Dye Works, Inc.; RI Hospital; Raytheon Group; Reed & Barton Group; Reichhold Chemical, Blane Div.; Reliable Electronic Finishing Co., Inc.; Reynolds & Markman, Inc.; Reynolds Group; Rockwell International; Rogers Corp.; Royce Aluminum Corp.; Rusty's, Inc.; Sanitoy Inc.; Schrafft Candy Co.; Scudder & Taylor; Sealol Inc.; Sears & Roebuck Co.; Semiconductor Processing Co. Inc.; Shell Oil Co. Group; Simeone Corp.; Sippican Corp.; Smith Valve; St. Jacques Church; St. Mary's School; St. Regis Paper Co.; Stanchem, Inc.; Stanley Works, Stanley Hardware Div.; Stead Aviation; Steam Associates, Inc.; Strathmore Paper Co.; Woronoco Mills; Suffolk Services, Inc.; Sunoco Group; T.H. Baylis Chemical Co.; Taunton Municipal Lighting Plant; Taunton Redevelopment Authority; Teknor Apex Company; Teledyne Rodney Metals; Texas Instruments; Textron Group; Theodore S. Harmon, Inc.; Thomas Strahan Co.; Tobey Hospital; Triangle Pacific; Trinity Oil Co.; U.S. Gypsum Co.; U.S. Air Force Group; U.S. Coast Guard Group; U.S. Dept. of Commerce; U.S. Post Office Group; Union Camp Corp.; Union Industries; Union Oil Co. of CA (AMSCO Div.); Union Paper Co.; Uniroyal, Inc.; United Methodist Church; University of Massachusetts; Van Deusen Aviation; Ventron Corp. Group; Vetorino Bros., Inc.; Viking Wire Co. Inc.; W.E. Atkinson Lumber Company; Wareham School Dept.; Wellfleet Elementary School; Westvaco-U.S. Envelope Division, Woods Hole Oceanographic Institution; Woods Hole Steamship Authority; Woonsocket, City of; Worcester City Hospital; Worcester Telegram & Gazette; and Xidex Corp.

These 276 parties will pay an estimated $10,960,292 in settlement payments under the agreement.

EPA is entering into the agreement under the authority of section 122(g) and 107 of CERCLA. Section 122(g) authorizes early settlements with *de minimis* parties to allow them to resolve their liabilities at Superfund sites without incurring substantial transaction costs. Under this authority, the agreement proposes to settle with parties in the Cannons case who are responsible for less than one percent of the waste volume at each of the four sites with which they are associated.

Settling Parties will be required to pay their volumetric shares of the governments' response costs at the four sites, including costs incurred by the government to date and the costs expected to be incurred at the sites in the future.

Settling Parties will also be required to pay a settlement premium in addition to their respective volumetric shares of the expected response costs at each site to compensate for the risks that are posed by settling before all costs are known. These settlement premium payments will total approimately 2.08 times the Settling Parties' shares of the expected future costs at the four sites. The amount of each Settling Party's premium payment is calculated by multiplying .60 times the Party's

volumetric share of the total response costs at the four sites.

Finally, Settling Parties will be required to pay a base settlement charge to reimburse the government for transaction costs incurred in conducting the settlement negotiations leading up to this proposal.

In exchange for these settlement payments, the governments covenant not to sue for further civil or administrative liabilities in connection with the four Cannons sites. The covenant also extends to all federal and state natural resource damage liabilities with the exception that Settling Parties may be called upon to fund assessments of damages to natural resources under the trusteeship of the National Oceanic and Atmospheric Administration (NOAA) at the Bridgewater, Plymouth and Nashua sites if data gathered in the next thirty months does not eliminate the need for damage assessments.

The Environmental Protection Agency will receive written comments relating to this agreement for thirty days from the date of publication of this notice.

A copy of the proposed administrative settlement agreement may be obtained in person or by mail from the EPA's Region I Office of Regional Counsel, J.F.K. Federal Building, Boston, Massachusetts, 02203. Additional background information relating to the settlement is available for review at the EPA's Region I Office of Regional Counsel.

Michael R. Deland,

Regional Administrator.

[FR Doc. 88-2918 Filed 2-10-88; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-42101; FRL 3327-8]

Testing Consent Agreement; Development for Diisodecyl Phenyl Phosphite (PDDP); Solicitation for Interested Parties

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA's procedures for requiring the testing of chemical substances and mixtures under section 4 of the Toxic Substances Control Act (TSCA) include the adoption of testing consent orders (TCOs) and the promulgation of test rules. TCOs may be adopted where consensus on an industry test program is reached in a timely manner by EPA, affected manufacturers and/or processors, and other interested parties. If timely consensus cannot be reached or appears unlikely, and the Agency makes certain statutory findings under TSCA, EPA issues test rules. This notice announces EPA's preliminary evaluation of the neurotoxicity testing needs for diisodecyl phenyl phosphite (PDDP; CAS No. 25550-98-5), announces a public meeting to discuss such testing, and requests all persons desiring to have the status of "interested parties" in any negotiations of a TCO for PDDP to notify EPA of that interest.

DATES: Submit written notice of interest to be designated an "interested party" on or before March 7, 1988. A public meeting will be held on February 22, 1988.

ADDRESS: (Submit written request to be an "interested party" in triplicate, identified by the document control number (OPTS-42101) to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. NE-G004, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Rm. E-534, 401 M St. SW., Washington, DC 20460, (202) 554-1404.

Persons interested in attending the public meeting should notify EPA by telephone on or before February 19, 1988.

SUPPLEMENTARY INFORMATION: EPA has issued amendments to the procedural regulation in 40 CFR Part 790 (51 FR 23706; June 30, 1986), which govern the development and implementation of testing requirements under section 4 of TSCA. These amendments establish procedures for using TCOs to develop testing requirements under section 4 of the Act. This notice serves three purposes under those procedures. First, it requires "interested parties" who wish to participate in testing negotiations for PDDP to identify themselves to EPA. Second, it announces a public meeting to initiate testing negotiations for this chemical. Third, it proposes a target schedule for implementation of the consent agreement process.

I. Identification of Interested Parties

Under 40 CFR 790.22, the testing negotiation procedures are initiated by the publication of a **Federal Register** notice which invites persons interested in participating in or monitoring negotiations for the development of a TCO to notify the Agency in writing. Those individuals and groups who respond to EPA's notice by the deadline established in the notice will have the status of "interested parties" and will be afforded opportunities to participate in the negotiations process. These "interested parties" will not incur any obligations by being designated "interested parties". The procedures for these negotiations are described in 40 CFR 790.22. Individuals and groups desiring to have the status of "interested parties" in the development of the TCO for PDDP should submit a written request to the Agency at the address given above on or before March 7, 1988.

II. Public Meeting

A public meeting will be held on February 22, 1988, in Rm. 103, Northeast Mall, EPA headquarters, 401 M St. SW., Washington, DC 20460, to announce EPA's preliminary determination for neurotoxicity testing of PDDP and to initiate testing negotiations. Persons interested in attending this meeting should notify the EPA TSCA Assistance Office by telephone at the number listed above on or before February 19, 1988.

III. Timetable for Negotiating Test Agreement

In accordance with the procedures for the development of TCOs established in 40 CFR 790.22, and the Agency's plans to propose a test rule for PDDP by September 30, 1988 (if a TCO cannot be developed in that time), the following target schedule is established for PDDP:

February 22, 1988—Public meeting to initiate testing negotiations.

March 7, 1988—Deadline for notice of interested party designations.

April 22, 1988—Decision by EPA on whether to use consent order or test rule.

June 22, 1988—Draft consent order sent to interested parties (if EPA Decides to use consent order).

September 10, 1988—Issuance of consent order to industry for signatures.

Authority: 15 U.S.C. 2603.

Dated: February 8, 1988.

Joseph J. Merenda,

Director, Existing Chemical Assessment Division.

[FR Doc. 88-3004 Filed 2-10-88; 8:45 am]

BILLING CODE 6560-50-M

FARM CREDIT ADMINISTRATION

Organization; Farm Credit System Assistance Board

AGENCY: Farm Credit Administration.

ACTION: Notice; charter of the Farm Credit System Assistance Board and certificate of dissolution of the Farm Credit System Capital Corporation.

SUMMARY: On January 21, 1988, the Farm Credit Administration (FCA) chartered the FARM CREDIT SYSTEM ASSISTANCE BOARD (Assistance Board) pursuant to section 6.0, Title VI, Subtitle A of the Farm Credit Act of 1971, as amended (Act), to supersede and succeed to the assets and liabilities of the Farm Credit System Capital Corporation (Predecessor Corporation) a service corporation chartered by the FCA on February 24, 1986, pursuant to Title IV, Part D1, section 4.28A of the Act. Congress established the Assistance Board under the Act as amended by the Agricultural Credit Act of 1987, Pub. L. 100–233, to carry out a program to provide assistance to, and protect the stock of borrowers of, the institutions of the Farm Credit System (System), and to assist in restoring System institutions to economic viability and permitting such institutions to continue to provide credit to farmers, ranchers, and the cooperatives of such, at reasonable and competitive rates. Pursuant to section 6.0 of the Act, the FCA also dissolved and revoked the charter of the Predecessor Corporation. The text of the Charter of the Assistance Board and of the Certificate of Dissolution of the Predecessor Corporation is set forth below:

Farm Credit Administration McLean, Virginia CHARTER—Farm Credit System Assistance Board

The Farm Credit Administration hereby charters the FARM CREDIT SYSTEM ASSISTANCE BOARD (Assistance Board) pursuant to secton 6.0, Title VI, Subtitle A of the Farm Credit Act of 1971, as amended (the Act). The purposes of the ASSISTANCE BOARD shall be to carry out a program to provide assistance to, and protect the stock of borrowers of, the institutions of the Farm Credit System, and to assist in restoring System institutions to economic viability and permitting such institutions to continue to provide credit to farmers, ranchers, and the cooperatives of such, at reasonable and competitive rates.

In accordance with Section 6.9(a) of the Act, the ASSISTANCE BOARD succeeds to the assets of the Farm Credit System Capital Corporation (Capital Corporation) chartered by the Acting Chairman of the Farm Credit Administration Baord under Title IV, Part D1 of the Act on February 24,1986, and shall assume all debts, obligations, contracts, and other liabilities of the Capital Corporation, matured or unmatured, accrued, absolute, contingent or otherwise, and whether or not reflected or reserved against on balance sheets, books of account, or records of the Capital Corporation.

The Farm Credit Administration grants this Federal charter to the FARM CREDIT SYSTEM ASSISTANCE BOARD, and said Assistance Board is hereby authorized to exercise all powers duly conferred under the Act, as same shall be in effect.

In Witness Whereof, the Chairman of the FCA Board has executed this charter and caused the seal of the Farm Credit Administration to be affixed hereto this 21st day of January 1988.

Farm Credit Administration.

By: Frank W. Naylor, Jr.,

Chairman of the Board.

Farm Credit Administration McLean, Virginia Certificate of Dissolution—Farm Credit System Capital Corporation

The Farm Credit Administration (FCA) hereby dissolves and revokes the charter of the FARM CREDIT SYSTEM CAPITAL CORPORATION (Corporation) chartered by the Farm Credit Administration on February 24, 1986, pursuant to Title IV, Part D1, section 4.28A of the Farm Credit Act of 1971, as amended (Act.) The Corporation is succeeded by the FARM CREDIT SYSTEM ASSISTANCE BOARD chartered by the FCA on this day with such powers as are provided in the Act.

In Witness Whereof, the Chairman of the FCA Board has executed this certificate of dissolution and caused the seal of the Farm Credit Administration to be affixed hereto this 21st day of January 1988.

Farm Credit Administration.

By: Frank W. Naylor, Jr.,

Chairman of the Board.

Dated: February 8, 1988.

David A. Hill,

Secretary, Farm Credit Administration Board.

[FR Doc. 88–2945 Filed 2–10–88; 8:45 am]

BILLING CODE 6705–01–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 3067–0166.

Title: Crisis Counseling Assistance and Training.

Abstract: To obtain a Crisis Counseling Grant, a State Agency (usually Mental Health) identified by the Governor, must submit a letter of request and a grant application to FEMA, and if approved and funded, submit quarterly and final program reports and a final expenditure report.

Type of Respondents: State or Local Governments.

Number of Respondents: 1.

Standard Form Account: 5.

Burden Hours: 1.

Standard Form Account: 1,540.

Frequency of Recordkeeping or Reporting: Quarterly.

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: February 3, 1988.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 88–2874 Filed 2–10–88; 8:45 am]

BILLING CODE 6718–21–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants; Beidl Forwarding Co. et al.

Notice is given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR Part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarder and Passenger Vessel Operations, Federal Maritime Commission, Washington, DC 20573.

Beidl Forwarding Co., 618–5th Avenue, River Edge, N.J. 07661, Officer: William M. Beidl, Owner

Flying Cloud Forwarding, Inc., 8042 N.W. 67th St., Miami, FL 33166, Officer: Lilia Varona, President

Bruce Chen International, 1235 North Loop West, STE#720, Houston, TX 77008, Officer: Bruce Chen, Owner

Cassandra International Inc., 167–21 Rockaway Blvd., Jamaica, New York 11434, Officers: Julia P. Nouvertne, President, Mary M. Palmer, Vice President

Woodbridge International Forwarding, 11 Greenway Plaza, Rm. 2602, Houston, TX 77046, Officers: Daniel Joseph Kubeczka, Sole Proprietor

All Express Cargo Inc., 114–16 Rockaway Boulevard, So. Ozone Park, NY 11420, Officers: Ronald J. Haugstatter, President, Angela Beatrice, Vice President

Air, Land, & Sea, Inc., 4195 Oneida Street, Denver, Colorado 80216, Officers: Diana E. Piech, President/

Trea./Dir., Joseph Martin Piech, Secretary

American Transport Group, Inc., 4203 Americana Drive #104, Annandale, Virginia 22003, Officer: Elias T. Samaha, President

SEI Shipping Corporation, 1301 West Walnut Street, Compton, CA 90220, Officers: Pedro R. Garcia, President, Helen Park, Vice President/Sec./Trea., Yong Kyu Jun, Director of Operations

By the Federal Maritime Commission.

Dated: February 8, 1988.

Joseph C. Polking,

Secretary.

[FR Doc. 88-2865 Filed 2-10-88; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bancorp New Jersey, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 3, 1988.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Bancorp New Jersey, Inc.*, Somerville, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of New Jersey Savings Bank, Somerville, New Jersey.

B. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Georgetown Bancorp, Inc.*, Georgetown, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Georgetown Bank & Trust Company, Georgetown, Kentucky, a de novo bank.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *CeeBee Corporation*, Prattville, Alabama; to become a bank holding company by acquiring 80 percent of the voting shares of The Citizens Bank, Prattville, Alabama.

2. *Smoky Mountain Bancorp, Inc.*, Gatlinburg, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Gatlinburg, Gatlinburg, Tennessee. Comments on this application must be received by February 26, 1988.

D. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Bath State Bancorp*, Bath, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of The Bath State Bank, Bath, Indiana. Comments on this application must be received by February 29, 1988.

E. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *The Union of Arkansas Corporation*, Little Rock, Arkansas; to acquire at least 82 percent of the voting shares of Union National Bank of Arkansas, Magnolia, Arkansas.

Board of Governors of the Federal Reserve System, February 5, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-2860 Filed 2-10-88; 8:45 am]

BILLING CODE 6210-01-M

Bankers Trust New York Corp.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 25, 1988.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Bankers Trust New York Corporation*, New York, New York; to engage *de novo* through its subsidiary, Texas and Southern Trust Company, Houston, Texas, in trust company functions pursuant to § 225.25(b)(3) of the Board's Regulation Y. These activities will be conducted in the State of Texas.

Board of Governors of the Federal Reserve System, February 5, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-2861 Filed 2-10-88; 8:45am]

BILLING CODE 6210-01-M

First City Acquisition Corp., Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company; Correction

This notice corrects a previous **Federal Register** notice (FR Doc. 88-2383) published at page 3454 of the issue for Friday, February 5, 1988.

Under the Federal Reserve Bank of Dallas, the entry for First City

Acquisition Corporation is revised to include the following:

A. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First City Acquisition Corporation,* Houston, Texas; to acquire First City Bank, Sioux Falls, N.A., Sioux Falls, South Dakota, pursuant to section 4(c)(8) of the Bank Holding Company Act.

Comments on this application must be received by February 15, 1988.

Board of Governors of the Federal Reserve System, February 5, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-2863 Filed 2-10-88; 8:45 am]

BILLING CODE 6210-01-M

First Eastern Corp.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 3, 1988.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *First Eastern Corporation,* Wilkes-Barre, Pennsylvania; to engage *de novo* through its subsidiary, Dolphin and Bradbury, Inc., Philadelphia, Pennsylvania, in providing financial advice to state and local governments such as with respect to the issuance of their securities pursuant to § 225.25(b)(4)(v) of the Board's Regulation Y. These activities will be conducted in the Commonwealth of Pennsylvania.

Board of Governors of the Federal Reserve System, February 5, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-2862 Filed 2-10-88; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collection Activities Under OMB Review

The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection 3090-0221, GSA Board of Contract Appeals Rules of Procedure.

AGENCY: Board of Contract Appeals, GSA.

ADDRESSES: Send comments to Bruce McConnell, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), F Street at 18th NW., Washington, DC 20405.

Annual Reporting Burden: Firms responding, 1,520; responses, 1 per year; hours per response, varies; burden hours, 342.

Purpose: The Board of Contract Appeals requires the background information collected so that it will be properly informed to hold hearings on contract appeals and bid protests.

For Further Information Contact: Margaret S. Pfunder, Attorney-examiner, 202-566-0116.

Copy of Proposal: Readers may obtain a copy of the proposal by writing the Information Collection Management Branch (CAIR), Room 3014, GS Bldg., Washington, DC 20405, or by telephoning 202-535-7074.

Dated: February 2, 1988.

Emily C. Karam,

Director, Information Management Division (CAI).

[FR Doc. 88-2883 Filed 2-10-88; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Conference on Quality Control Measures in Gynecologic Cytology

Action: Conference on Quality Control Measures in Gynecologic Cytology.

Time and Date: 8:00 a.m.—Tuesday, March 1, 1988, through 5:00 p.m.—Wednesday, March 2, 1988.

Place: Terrace Garden Inn, Pageantry Hall, 3405 Lenox Road, NE., Atlanta, Georgia 30326.

Status: Open to the Public for participation, comment, and observation, limited only by space available.

Purpose: The conference will provide a forum for professional organizations, Government agencies, and academic and clinical laboratories concerned with gynecologic cytology testing to present their current and future programs. Presentations and discussions during the conference will focus on (a) the status of the quality of Pap smear testing in the United States, (b) specific aspects of Pap smear testing which should be improved, (c) essential features of within-laboratory quality control and quality assurance of Pap smear testing, and (d) the appropriate mechanisms for external monitoring of laboratory performance of Pap smear testing.

Contact Person for More Information: Vernon N. Houk, M.D., Director, Center for Environmental Health and Injury Control, CDC, Atlanta, Georgia 30333. Telephones: FTS: 236-4111; Commercial: (404) 488-4111.

Dated: February 8, 1988.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 88-2866 Filed 2-10-88; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 88F-0007]

Nutrasweet Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the NutraSweet Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of aspartame as a sweetener in hot and instant cereals.

FOR FURTHER INFORMATION CONTACT: Joseph Leginus, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–426–5487.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 8A4055) has been filed by the NutraSweet Co., 4711 Golf Rd., Skokie, IL 60076, proposing that § 172.804 *Aspartame* (21 CFR 172.804) be amended to provide for the use of aspartame as a sweetener in hot and instant cereals.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: February 3, 1988.

Fred R. Shank,

Acting Deputy Director Center for Food Safety and Applied Nutrition.

[FR Doc. 88–2932 Filed 2–10–88; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 88M–0001]

NIDEK, Inc.; Premarket Approval of NIDEK ND:YAG Ophthalmic Laser Model YC–1000

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by NIDEK, Inc., Palo Alto, California, for premarket approval, under the Medical Device Amendments of 1976, of the NIDEK Nd:YAG Ophthalmic Laser Model YC–1000. This laser is to be manufactured under an agreement with Allergan Medical Optics (AMO), Santa Ana, CA, which has authorized NIDEK, Inc., to include information based upon its approved premarket approval (PMA) application for the AMO Nd:YAG Ophthalmic Laser Model YAG–200. After reviewing the application from NIDEK, Inc., FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by March 14, 1988.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert A. Phillips, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–8221.

SUPPLEMENTARY INFORMATION: On March 31, 1987, NIDEK, Inc., Palo Alto, CA 94303, submitted to CDRH an application for premarket approval of the NIDEK Nd:YAG Opthlamic Laser Model YC–1000. The neodymium:yttrium-aluminum-garnet (Nd:YAG) ophthalmic laser is identical to AMO Model YAG–200, indicated for the discission of the posterior capsule of the eye (posterior capsulotomy) and pupillary membranes (pupillary membranectomy) in aphakic and pseudophakic patients and performing iridotomy (hole in the iris) in phakic, pseudophakic and aphakic patients. The application included authorization from AMO, Santa Ana, CA 92799–5155, to include information based on its approved premarket approval application (PMA) and PMA supplements for AMO Model YAG–200 for the same indications.

On December 11, 1987, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Robert A. Phillips, (HFZ–460), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 14, 1988, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: February 2, 1988

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 88–2934 Filed 2–10–88; 8:45 am]

BILLING CODE 4160–01–M

Public Health Service

Health Resources and Services Administration; Health Care Services in the Home, Part K of Title III of the Public Health Service Act; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of authority to the Administrator, Health Resources and Services Administration

(HRSA), on February 2, 1988, by the Assistant Secretary for Health, the Administrator, HRSA, has delegated to the Director, Bureau of Health Care Delivery and Assistance, with authority to redelegate, the authority under Part K of Title III of the Public Health Service (PHS) Act, as amended, pertaining to Health Care Services in the Home. Previous delegations and redelegations made to officials within HRSA of authorities under Title III of the PHS Act may continue in effect provided they are consistent with this delegation.

The above delegation was effective on February 2, 1988.

Date: February 2, 1988.

David N. Sundwall,

Administrator, Health Resources and Services Administration.

[FR Doc. 88-2864 Filed 2-10-88; 8:45 am]

BILLING CODE 4160-15-M

Office of the Assistant Secretary for Health, National Center for Health Services Research and Health Care Technology Assessment; Use of Implantable Pumps for Morphine; 1988

The Office of Health Technology Assessment recently published a notice in the **Federal Register** (*52*:32996; September 1, 1987) announcing an assessment of the use of implantable pumps to administer morphine or other narcotic or non-narcotic analgesics for the treatment of intractable cancer pain.

In addition to those questions posed in the above reference notice, this assessment seeks to answer the following questions: (a) Are implantable pump devices widely accepted as a safe and clinically effective method of delivering morphine sulfate to patients with intractable cancer pain? (b) What types of implantable infusion pumps would be considered safe and clinically effective in treating patients with intractable cancer pain? (c) Which patients, having what stage or severity of cancer are most likely to benefit from long term morphine treatment by implantable infusion pumps? (d) What benefits, risks or complications are associated with the implantable infusion pumps when used for delivering morphine, (e) Are there categories of patients with intractable cancer pain for whom the pump is not suitable or for whom its use is contraindicated? (f) Are there conditions under which the use of these devices is deemed more appropriate than use of another modality? (g) Are there different features such as programmability of newer versus older designs or alarms that should be considered in evaluating these systems? (h) What are the implications of lock-out features for the implantable pumps used to treat intractable cancer pain?

Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than March 15, 1988.

Written material should be submitted to: Diane L. Adams, M.D., M.P.H., Office of Health Technology Assessment, 5600 Fishers Lane, Room 18A-27, Rockville, MD 20857, (301) 443-4990.

Date: February 4, 1988.

Morgan N. Jackson,

Acting Director Office of Health Technology Assessment, National Center for Health Services Research, and Health Care Technology Assessment.

[FR Doc. 88-2903 Filed 2-10-88; 8:45 am]

BILLING CODE 4160-17-M

Health Resources and Services Administration; Health Care Services in the Home, Part K of Title III of the Public Health Service Act; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of authority to the Assistant Secretary for Health on January 14, 1981, (46 FR 10016) by the Secretary of Health and Human Services, the Assistant Secretary for Health has delegated to the Administrator, Health Resources and Services Administration, with authority to redelegate, the authority under Part K of Title III of the Public Health Service (PHS) Act, as amended, pertaining to Health Care Services in the Home. Previous delegations and redelegations made to officials within the Public Health Service of authorities under Title III of the PHS Act may continue in effect provided they are consistent with this delegation.

The above delegation was effective on February 2, 1988.

Date: February 2, 1988.

Robert E. Windom,

Assistant Secretary for Health.

[FR Doc. 88-2930 Filed 2-10-88; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of the Draft Environmental Assessment; Roanoke River National Wildlife Refuge; a Wildlife Habitat Preservation Proposal Halifax, Bertie, and Martin Counties, NC

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of a draft environmental assessment; Roanoke River National Wildlife Refuge; a wildlife habitat preservation proposal.

SUMMARY: This Notice advises the public that the "Draft Environmental Assessment for Roanoke River: A Wildlife Habitat Preservation Proposal" will be available for public review on February 8, 1988. The U.S. Fish and Wildlife Service (Service) proposes to protect and enhance approximately 30,000 acres of strategically located wooded wetlands, consisting of bottomland hardwood forests and swamps with high waterfowl value in Halifax, Bertie, and Martin Counties, North Carolina. The environmental assessment (assessment) considers the biological, environmental, and socioeconomic effects of protecting and preserving 30,000 acres of wooded wetlands for the benefit of migrating and wintering black ducks, mallards, and wood ducks; for wood duck production; and for protection and development of striped bass habitat. Secondary objectives would include protection and management for other wetland wildlife species, management for compatible public uses, forestry, and research. Five alternatives for protection of the area are discussed in the assessment. These range from "No Action" to "Combined Fish and Wildlife Service/North Carolina Wildlife Resources Commission Acquisition and Management." The Preferred Alternative is "Fee Acquisition and Management by the Service."

The assessment is available upon request, and comments from the public are invited. Two public meetings will be held to hear views from the public and are scheduled as follows:

February 17, 1988, 7:30 p.m., Williamston High School Auditorium, 200 Godwin Avenue, Williamston, North Carolina

February 18, 1988, 7:30 p.m., Athens Drive High School Auditorium, 1420 Athens Drive, Raleigh, North Carolina

DATES: The assessment will be available to the public on February 8, 1988. Written comments must be received no later than March 11, 1988, to be considered.

ADDRESSES: Requests for copies of the assessment and other questions should be addressed to: Mr. Charles Danner, Office of Refuges and Wildlife, U.S. Fish and Wildlife Service, 75 Spring Street, SW., Room 1240, Atlanta, Georgia 30303; telephone Commerical (404)331-3543 or FTS 242-3543.

Written Comments should be addressed to: Regional Director, U.S.

Fish and Wildlife Service, 75 Spring Street, SW., Room 1200, Atlanta, Georgia 30303.

SUPPLEMENTARY INFORMATION: The Service proposes to preserve, through fee title acquisition and management, approximately 30,000 acres of wooded wetlands within the Roanoke River basin in Halifax, Bertie, and Martin Counties, North Carolina. The primary purpose of the proposal is to provide wetland habitat for the benefit of migrating and wintering black ducks, mallards, and wood ducks; for wood duck production; and for the development of striped bass habitat. Secondary objectives of the proposed action would include protection and management for other wetland wildlife species and compatible public uses, forestry practices, and research.

The proposed project area is located in the middle portion of the Roanoke River. Not only does this area contain the most productive wetlands, but also has the widest variety of tree species. The floodplain contains pockets of swamp (near permanently flooded areas) that support tupelo gum and cypress stands. Here are found the bottomlands or alluvial ridges that contain oak, ash, maple, hickory, yellow poplar, hackberry, sugarberry, sycamore, persimmon, elm, buckeye, cottonwood, black gum, and sweet gum trees.

The Service considered the following five alternatives for the preservation of habitat in the Roanoke River floodplain: *Alternative 1:* No Action; *Alternative 2:* Acquisition of Conservation Easements by Fish and Wildlife Service; *Alternative 3:* Acquisition/Management by Others; *Alternative 4:* Fee Acquisition and Management by Fish and Wildlife Service (Preferred Alternative); and *Alternative 5:* Combined Fish and Wildlife Service/North Carolina Wildlife Resources Commission Acquisition and Management.

All alternatives were considered in light of the degree of resource protection and enhancement offered, the ability to effectively manage the area, the environmental consequences, the costs involved, and the consistency with Service land acquisition policy.

The alternatives are briefly described below:

Alternative 1. No Action—In this "status quo" alternative, the Service would rely on existing local, State, and Federal regulatory bodies to protect the resource and its habitat. If this alternative is selected, the primary vegetation in bottomlands would slowly continue to be altered by clearing of vegetation on the higher elevations, drainage, and conversion to additional croplands, pasturelands, or sweet gum/sycamore plantations.

Alternative 2: Acquisition of Conservation Easements by Fish and Wildlife Service—Under this alternative the Service would acquire the right on designated project lands to prevent certain uses that would be detrimental to waterfowl use. The Service could prevent designated harmful uses but otherwise could not engage in management on the property.

Alternative 3: Acquisition/Management by Others—Under this alternative the Service would not acquire nor manage the land but would rely on another entity to do so. The purpose for which the land was purchased would dictate the impact that it would have on future vegetative cover, wildlife populations, hydrology, and socioeconomics.

Alternative 4: Fee Acquisition and Management by the Fish and Wildlife Service (Preferred Alternative)—Under this alternative, the Service would acquire fee title to key tracts totaling approximately 30,000 acres for inclusion within the National Wildlife Refuge System. Where feasible, management by habitat improvement would be practiced in order to provide optimum carrying capacity with emphasis on black ducks, mallards, wood ducks, and striped bass. This alternative would benefit the entire range of environmental components to the greatest degree.

Alternative 5: Combined Fish and Wildlife Service/North Carolina Wildlife Resources Commission Acquisition and Management—Under this alternative, the Fish and Wildlife Service, and North Carolina Wildlife Resources Commission would identify and either jointly or separately acquire and manage approximately 30,000 acres of Roanoke River bottomlands and swamps. The various habitat, wildlife, and water management methods described in the preceding section would also be practiced under this alternative.

Service personnel and representatives from North Carolina Wildlife Resources Commission and The Nature Conservancy held several meetings to gather information for this assessment. Commission personnel support Service involvement in the Roanoke basin as well as the Service's acquisition of lands adjacent to their holdings.

James W. Pulliam, Jr.,

Regional Director.

February 3, 1988.

[FR Doc. 88-2875 Filed 2-10-88; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

[NM-030-08-4212-12]

Las Cruces District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of postponement of meeting.

SUMMARY: This notice announces the postponement of the Las Cruces District Advisory Council meeting previously scheduled on March 22, 1988, and announced in the **Federal Register** January 21, 1988 (53 FR 450). The new date for the meeting is March 21, 1988. The agenda for the meeting remains the same as previously announced. The time for the meeting also remains unchanged: 10:00 a.m. to approximately 3:30 p.m. with a public comment period at 1:00 p.m.

ADDRESS: The meeting will be held in the conference room of the Las Cruces District Office, 1800 Marquess, Las Cruces, NM 88005.

FOR FURTHER INFORMATION CONTACT: Jim Fox, District Manager, (505) 525-8228.

H. James Fox,

District Manager.

February 1, 1988.

[FR Doc. 88-2876 Filed 2-10-88; 8:45am]

BILLING CODE 4310-FB-M

[CA-940-08-4220-10; CA 3653]

California; Termination of Proposed Withdrawal and Reservation of Land Correction

February 5, 1988.

In notice document 88-1743 beginning on page 2544 in the issue of January 28, 1988, make the following correction:

On page 2544 in the second column, eighth line from the bottom, "Shasta County" is hereby corrected to read "Siskiyou County".

Nancy J. Alex,

Chief, Lands Section, Branch of Adjudication & Records.

[FR Doc. 88-2881 Filed 2-10-88; 8:45 am]

BILLING CODE 4310-40-M

[WY-920-08-4111-15; W-84946]

Proposed Reinstatement of Terminated Oil and Gas Lease; Wyoming

Pursuant to the provisions of Pub. L. 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3 (a) and

(b)(1), a petition for reinstatement of oil and gas lease W–84946 for lands in Campbell County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessees have agreed to the amended lease terms for rentals and royalties at rates of $5 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessees have paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessees have met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W–84946 effective August 1, 1987, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 88–2877 Filed 2–10–88; 8:45 am]

BILLING CODE 4310–22–M

[CA–940–07–4520–12; C–18–87]

Filing of Plat of Survey; California

February 4, 1988.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

San Bernardino Meridian, Riverside County

T. 4 S., R. 7 E.

2. This supplemental plat of section 2, Township 4 South, Range 7 East, San Bernardino Meridian, California, was accepted January 29, 1988.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

February 4, 1988.

[FR Doc. 88–2878 Filed 2–10–88; 8:45 am]

BILLING CODE 4310–40–M

[CA–940–07–4520–12; C–2–88]

Filing of Plat of Survey; California

February 4, 1988.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Inyo County

T. 21 S., R. 37 E.

2. This supplemental plat of the S½ of section 2, section 11 and the N½ of section 14, Township 21 South, Range 37 East, Mount Diablo Meridian, California, was accepted January 29, 1988.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

February 4, 1988.

[FR Doc. 88–2879 Filed 2–10–88; 8:45 am]

BILLING CODE 4310–40–M

[AZ–020–08–4212–13; A–22859]

Public Land Exchange, Mohave County, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action exchange, public land, Mohave County, Arizona.

SUMMARY: The following described lands and interests therein have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian

T. 19 N., R. 21 W.,

Sec. 30, E½SE¼NW¼, E½NE¼SW¼, S½NW¼NE¼SW¼, SW¼NE¼SW¼, SE¼SW¼.

Containing 95.0 acres, more or less.

In exchange for these lands, the United States will acquire the following described lands from Ramon J. Martinez and Thomas R. Reingruber of Las Vegas, Nevada:

Gila and Salt River Meridian

T. 16 N., R. 12 W.,
Sec. 7, lot 3.
T. 16 N., R. 14 W.,
Sec. 5, N½SE¼.
T. 24 N., R. 17 W.,
Sec. 15, NW¼NE¼, SW¼SW¼.
T. 24 N., R. 18 W.,
Sec. 1, lots 1–4, S½;
Sec. 13, SW¼NE¼.
T. 28 N., R. 15 W.,
Sec. 29, West 1320 feet of lots 1 and 2;
Sec. 31, W½SW¼, SE¼SW¼.
T. 28 N., R. 19 W.,
Sec. 1, NE¼SW¼;
Sec. 33, NE¼SE¼.
T. 29 N., R. 15 W.,
Sec. 17, N½NW¼, N½SE¼NW¼.

Containing 1,131.50 acres, more or less.

The public land to be transferred will be subject to the following terms and conditions:

1. Reservations to the United States: (a) right-of-way for ditches and canals pursuant to the Act of August 30, 1890.

2. Subject to: (a) right-of-way to the Southwest Gas Corporation (A–4545); and (b) restrictions that may be imposed by the Mohave County Board of Supervisors in accordance with county floodplain regulations established under Resolution No. 84–10 adopted on December 3, 1984, as amended.

Private lands to be acquired by the United States will be subject to the following reservations:

1. All minerals to the Santa Fe Pacific Railroad Company together with the right to prospect for, mine, and remove same; and

2. Easement for the north 60 feet and west 42 feet reserved for ingress and egress (NW¼SW¼, Sec. 7, T. 16 N., R. 12 W.).

The purpose of the exchange is to consolidate federal land to facilitate resource management in range, wildlife and recreation and to dispose of isolated and/or difficult to manage land with speculative development potential.

Publication of this Notice will segregate the subject lands from operation of the public land laws, including the mining laws, but not the mineral leasing laws or Title V of the Federal Land Policy and Management Act of 1976. This segregation will terminate upon the issuance of a deed or patent or two years from the date of

publication of this Notice in the **Federal Register** or upon publication of a Notice of Termination.

Detailed information concerning this exchange may be obtained from the Kingman Resource Area Office, 2475 Beverly Avenue, Kingman, Arizona 86401. For a period of forty-five (45) days from the date of publication of this Notice in the **Federal Register**, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027. Any adverse comments will be evaluated by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Henri R. Bisson,

District Manager.

Date: February 4, 1988.

[FR Doc. 88-2880 Filed 2-10-88; 8:45 am]

BILLING CODE 4310-32-M

[OR-050-4322-11: GP8-068]

Prineville District Grazing Advisory Board, Oregon; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 of a meeting of the Prineville District Grazing Advisory Board to the held April 14, 1988.

The meeting will begin at 10:00 a.m. in the conference room of the Bureau of Land Management office located at 185 East 4th Street, Prineville, Oregon 97754.

The agenda will include the following items:

1. Update of the "Oregon Watershed Improvement Coalition" (OWIC) activities.

2. Review of the District Monitoring Plan.

3. Brothers/LaPine Resource Management Plan Grazing Issues/Public Comments.

4. Grazing fee issue update.

5. Brothers planning area evaluation/decision status.

6. F.Y. 89 range improvement projections.

7. Development of new and revision of current allotment management plans.

The meeting is open to the public. Anyone wishing to attend and/or make written or oral statements to the Board is requested to contact the District Manager at the above address prior to April 8.

Summary minutes of the meeting will be available for review and reproduction within 30 days following the meeting.

Dated: February 4, 1988.

James L. Hancock,

District Manager.

[FR Doc. 88-2893 Filed 2-10-88; 8:45 am]

BILLING CODE 4310-3-M

[WY-920-08-4111-15; W-78879-A]

Proposed Reinstatement of Terminated Oil and Gas Lease; Wyoming

February 4, 1988.

Pursuant to the provisions of Pub. L. 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3(a) and (b)(1), a petition for reinstatement of oil and gas lease W-78879-A for lands in Jonhson County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5 per acre, or fraction thereof, per year and 16-2/3 percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W-78879-A effective November 1, 1987, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 88-2891 Filed 2-10-88; 8:45 am]

BILLING CODE 4310-22-M

[CA-010-08-4212-13; CA 19645]

Realty Action; Proposed Land Exchange in Monterey, Fresno, and San Benito Counties, CA

AGENCY: Bureau of Land Mangement, Interior.

ACTION: Notice of realty action; proposed land exchange of public and private lands in Monterey, Fresno, and San Benito Counties, CA.

SUMMARY: This notice is to advise the public that the Hollister Resource Area of the Bureau of Land Management and Mr. John Eade representing himself and several other individuals are proposing a land exchange.

SUPPLEMENTARY INFORMATION: The following described public lands in Monterey and San Benito Counties have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Mt. Diablo Meridian, California

T. 15 S., R. 5 E., M.D.M., CA.,
Sec. 12, lots 1, 2, 3, 6, 7, 8;
Sec. 13, Lots 1, 2, 7, 9;
Sec. 14, Lots 5, 9, 11, 12, 13, 14;
Sec. 15, SE¼NE¼;
Sec. 23, Lot 3, 749.60.
T. 15 S., R. 6 E., M.D.M., CA.,
Sec. 18, NW¼NE¼, SE¼NW¼, 80.00.
T. 17 S., R. 10 E., M.D.M., CA.,
Sec. 15, N½N½, SW¼NW¼, 200.00.
T. 18 S., R. 10 E., M.D.M., CA.,
Sec. 13, NE¼SW¼, 40.00.
T. 18 S., R. 11 E., M.D.M., CA.,
Sec. 35, S½NE¼, 80.00.
T. 19 S., R. 10 E., M.D.M., CA.,
Sec. 3, Lot 4, 42.47;
Sec. 10, Lots 1 & 2, 36.00.
T. 19 S., R. 11 E., M.D.M., CA.,
Sec. 1, S½SE¼;
Sec. 12, NE¼, 240.00.
T. 19 S., R. 12 E., M.D.M., CA.,
Sec. 6, Lot 7;
Sec. 7, Lots 2 & 3;
Sec. 8, SW¼, 287.72.
T. 22 S., R. 8 E., M.D.M., CA.,
Sec. 12, NE¼NE¼, N½SE¼NE¼.
T. 22 S., R. 9 E., M.D.M., CA.,
Sec. 6, SE¼SW¼ & Lot 7;
Sec. 7, Lot 1 & N½ Lot 2, 225.10.
Containing 1980.89 acres, more or less.

In exchange for these lands, the Federal Government will acquire tracts of non-Federal lands in Fresno and San Benito counties from Mr. John Eade and his associates described as follows:

Mt. Diablo Meridian, California

T. 18 S., R. 10 E., M.D.M., CA.,
Sec. 13, W½SW¼, 80.00.
T. 18 S., R. 11 E., M.D.M., CA.,
Sec. 16, NE¼, 160.00.
T. 18 S., R. 12 E., M.D.M., CA.,
Secs. 19 & 20, MS 5191, 85.00.
T. 21 S., R. 14 E., M.D.M., CA.,
Sec. 17, SE¼SE¼, 40.00.
Containing 365.00 acres, more or less.

The purpose of the exchange is to acquire the non-Federal lands to provide access to isolated Federal lands and enhance their management. The exchange is consistent with the Bureau's planning for the lands involved. The public interest will be well served by making the exchange.

The value of the lands to be exchanged is approximately equal, and the acreage will be adjusted or money will be used to equalize the values upon completion of the final appraisal of the lands.

The terms and conditions applicable to the exchange are:

1. The reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the

United States, Act of August 30, 1890 (43 U.S.C. 945).

2. The proponents agree to take the real estate subject to the existing grazing use of the following lessees, holders of the following grazing authorizations, respectively. The rights of the lessees to graze domestic livestock on the real estate according to the conditions and terms of their grazing authorization shall cease two years from date of receipt of notice or the expiration date of their lease, whichever is longer, or until such time as the lessee elects to waive such rights. The proponents are entitled to receive annual grazing fees from the lessees in an amount not to exceed that which would be authorized under the federal grazing fee published annually in the **Federal Register**.

Lessee	Authorization Number
Carney Land Co	CA-019-4454.
Mr. Herman Akers	CA-019-4301.
Diamond T Land and Cattle Co	CA-019-4390.
Mr. Louis J. Vallego	CA-019-4417.

The publication of this notice in the **Federal Register** will segregate to public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws, for a period of two years. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed, and shall be returned to the applicant. This segregation shall terminate upon issuance of patent or two years from the date of this publication, whichever occurs first.

Detailed information concerning the exchange, including the environmental assessment, is available at the Hollister Resource Area Office, P.O. Box 365, Hollister, California 95024.

For a period of 45 days from publication of this notice in the **Federal Register**, interested parties may submit comments to the Area Manager, Hollister Resource Area at the above address. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this action will become the final determination.

Dated: February 1, 1988.

David Howell,

Area Manager.

[FR Doc. 88-2894 Filed 2-10-88; 8:45 am]

BILLING CODE 4310-40-M

[CO-942-08-4520-12]

Colorado; Filing of Plats of Survey

January 29, 1988.

The plats of survey of the following described land, was officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m., January 29, 1988.

The supplemental plat creating new lots 9 and 10, section 2, T. 14 S., R. 72 W., Sixth Principal Meridian, Colorado was accepted January 20, 1987.

The supplemental plat creating lot 11, in section 34, T. 10 S., R. 74 W., Sixth Principal Meridian, Colorado, was accepted January 6, 1988.

The plat representing the corrective dependent resurvey of a portion of the subdivisional lines, T. 42 N., R. 5 E., New Mexico Principal Meridian, Colorado, Group No. 872, was accepted January 20, 1988.

These surveys were executed to meet certain administrative needs of this Bureau.

The plat representing the corrective dependent resurvey of the west one mile of the north boundary, the dependent resurvey of a portion of the north boundary and the subdivisional lines, and the subdivision of certain sections, T. 5 N., R. 79 W., Sixth Principal Meridian, Colorado for Group No. 822, was accepted January 21, 1988.

The plat representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of certain sections, T. 5 N., R. 78 W., Sixth Principal Meridian, Colorado for Group No. 822, was accepted January 21, 1988.

These surveys were executed to meet certain administrative needs of the U.S. Forest Service.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado, 8015.

Jack A. Eaves,

Chief, Cadastral Surveyor for Colorado.

[FR Doc. 88-2899 Filed 2-10-88; 8:45 am]

BILLING CODE 4310-JB-M

[WY-940-08-4520-12]

Filing of Plats of Survey, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Filing of plats of survey.

SUMMARY: The plats of survey of the following described lands were officially filed in the Wyoming State Office, Bureau of Land Management, Cheyenne, Wyoming, effective 10:00 a.m., February 2, 1988.

Sixth Principal Meridian

T. 48 N., R. 72 W.

The plat representing the dependent resurvey of the Twelfth Standard Parallel North, through R. 72 W., the Ninth Guide Meridian West, through T. 48 N., between Rs. 72 and 73 W., and the subdivisional lines, T. 48 N., R. 72 W., Sixth Principal Meridian, Wyoming, Group No. 455, was accepted January 22, 1988.

T. 17 N., R. 84 W.

The plat representing the dependent resurvey of portions of the north and west boundaries, a portion of the subdivisional lines, and the subdivision of section 6, T. 17 N., R. 84 W., Sixth Principal Meridian, Wyoming, Group No. 479, was accepted January 22, 1988.

T 18 N., R. 105 W.

The plat representing the dependent resurvey of the Thirteenth Guide Meridian West, through T. 18 N., between Rs. 104 and 105 W., the south and west boundaries, a portion of the north boundary, a portion of the subdivisional lines, and the survey of the subdivision of section 6, T. 18 N., R. 105 W., Sixth Principal Meridian, Wyoming, Group No. 424, was accepted January 22, 1988.

T 18 N., R. 106 W.

The plat representing the dependent resurvey of portions of the south and west boundaries, the north boundary, and the subdivisional lines, and the corrective dependent resurvey of a portion of the west boundary, T. 18 N., R. 106 W., Sixth Principal Meridian, Wyoming, Group No. 424, was accepted January 22, 1988.

These surveys were executed to meet certain administrative needs of this Bureau.

T 53 N., R. 92 W.

The plat showing a subdivision of original lot 10, Sec. 18, T. 53 N., R. 92 W., Sixth Principal Meridian, Wyoming, was accepted January 22, 1988.

T 56 N., R. 96 W.

The plat showing a subdivision of original lot 1, Sec. 3, T. 56 N., R. 96 W., Sixth Principal Meridian, Wyoming, was accepted January 22, 1988.

These supplemental plats were prepared to meet certain administrative needs of this Bureau.

ADDRESS: All inquiries concerning these lands should be sent to the Wyoming State Office, Bureau of Land Management, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82003.

Dated: February 3, 1988.

Richard L. Oakes,

Chief, Branch of Cadastral Survey.

[FR Doc. 88-2895 Filed 2-10-88; 8:45 am]

BILLING CODE 4310-22-M

[CA-060-08-5101-09-FB15]

Intent for 1988 Review of the California Desert Plan; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction notice.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 29, 1988, (Vol. 53, p. 2648), the Bureau of Land Management published a Notice of Intent initiating its 1988 review of the California Desert Plan. The title of the notice was "Intent for 1988 Amendment Review of the California Desert Plan in Imperial County, CA." However, the review is not meant to be limited to Imperial County. All counties affected by the Plan are involved in the review, including Inyo, Kern, Los Angeles, Riverside, San Bernardino, and San Diego Counties. Proposed amendments are being accepted until March 18, 1988. Please send your comments and proposals to the address below.

FOR FURTHER INFORMATION CONTACT: Gerald E. Hillier, District Manager, Bureau of Land Management, California Desert District, 1695 Spruce Street, Riverside, CA 92507, (714) 351-6428.

Dated February 3, 1988.

Wes Chambers,

Acting District Manager.

[FR Doc. 88-2896 Filed 2-10-88; 8:45 am]

BILLING CODE 4310-40-M

[UT-020-88-4212-08]

Management Framework Plan; Salt Lake District, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Cancellation of previous notice of intent to amend Tooele Management Framework Plan; publication of new notice of intent to amend.

SUMMARY: The notice of intent to amend the Tooele Management Framework Plan (MFP) published in the **Federal Register** (Vol. 52, No. 242, Page 47977) on December 17, 1987, is replaced by this notice of intent to amend the Tooele MFP to allow for the disposal of certain public lands in Tooele County, Utah.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management is proposing to amend the Tooele MFP. The purpose of the amendment would be to identify certain public lands as suitable for disposal by sale and certain public lands as suitable for disposal by exchange.

The 140 acres proposed to be identified as suitable for disposal by sale are legally described as follows:

T. 6 S., R. 18 W., SLM.,
Section 4: W½E½SW¼;
Section 8: NE¼NE¼;
Section 9: W½NE¼NW¼, NW¼NW¼.

The 11,639 acres proposed to be identified as suitable for disposal by exchange are legally described as follows:

T. 1 S., R. 10 W., SLM.,
Section 4: S½NW¼, S½;
Section 5: E½SE¼;
Section 9: All.

T. 3 S., R. 8 W., SLM.,
Section 3: SW¼SW¼;
Section 4: S½SE¼, SE¼SW¼;
Section 9: E½;
Section 10: NE¼NE¼, W½NE¼, NW¼, N½SW¼, NW¼SE¼;
Section 20: W½;
Section 29: W½;
Section 30: S½;
Section 31: All.

T. 4 S., R. 8 W., SLM.,
Section 5: All;
Section 6: All;
Section 7: All;
Section 8: All;
Section 9: S½;
Section 17: All;
Section 18: All;
Section 20: All;
Section 21: NW¼, N½SW¼, SW¼NE¼, NW¼SE¼.

T. 4 S., R. 9 W., SLM.,
Section 1: All.

T. 6 S., R. 8 W., SLM.,
Section 10: NW¼NE¼;
Section 11: NW¼, N½SW¼, SE¼SW¼.

The existing Tooele MFP does not identify any of the public lands described above for disposal.

For 30 days from the date of publication of this notice, written comments concerning the proposed amendment may be sent to: Howard Hedrick, Area Manager, Pony Express Resource Area, Bureau of Land Management, 2370 South 2300 West, Salt Lake City, Utah 84119. For additional information, contact Howard Hedrick at (801) 524-5348.

Dated: February 2, 1988

Kemp Conn,

Acting State Director.

[FR Doc. 88-2961 Filed 2-10-88; 8:45 am]

BILLING CODE 4310-DQ-M

[AZ-020-08-4322-12]

Meeting of Phoenix/Lower Gila Resource Areas Grazing Advising Board

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting, Phoenix/Lower Gila Resource Areas Grazing Advisory Board.

SUMMARY: The Phoenix/Lower Gila Resource Areas Grazing Advisory Board will hold a tour on Tuesday, April 5, 1988. The tour will be on the Agua Blanco Allotment (Cohn Ranch) near Tucson and will leave the Phoenix District office at 8:00 a.m. Anyone wishing to attend the tour must provide their own transportation and notify the District Manager, 2015 West Deer Valley Road, Phoenix, Arizona 85027, at least seven days prior to the meeting.

Henri R. Bisson,

District Manager.

Date: January 28, 1988.

[FR Doc. 88-2963 Filed 2-10-88; 8:45 am]

BILLING CODE 4310-320-M

[WY-930-08-4212-14; W-73372]

Conveyance and Opening Order; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of exchange of public land for private land and conveyance and order providing for opening of public land in Sublette County.

SUMMARY: This notice advises the public of the completion of an exchange of land between the United States, Bureau of Land Management, and Peter M. and Brigid S. Flanigan. The order opens the land acquired by the United States to operation of the public land laws.

EFFECTIVE DATE: At 9:30 a.m. on March 1, 1988, the land described in paragraph 2 shall be open to operation of the public land laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. This actions conforms to existing land use plans, and the land will be managed under the guidance provided by these plans. The land described in paragraph 1 was segregated from appropriation under the public land laws, including the mining laws, by Notice of Realty Action W-73372 published July 1, 1986, in the **Federal Register** (51 FR 23843). The segregative effect of that notice terminated upon issuance of the patent on January 13, 1988.

FOR FURTHER INFORMATION CONTACT: Jon Johnson, Wyoming State Office, 2515 Warren Avenue, Cheyenne, Wyoming 82001, (307) 772-2074.

SUPPLEMENTARY INFORMATION: 1. In accordance with the provisions of Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716, the following Federal land, surface estate and mineral estate excepting oil and gas, has been conveyed to Peter M.

and Brigid S. Flanigan, New York, New York:

Sixth Principal Meridian

T. 30 N., R. 104 W.,
Sec. 7, NE¼SE¼ and S½SE¼;
Sec. 8, S½S½NE¼, S½SE¼NW¼ and N½SE¼;
Sec. 9, S½SW¼NW¼ and NW¼SW¼.

The land described contains 320.00 acres.

2. In exchange for the above land, the United States acquired the following non-Federal land from Peter M. and Brigid S. Flanigan:

Sixth Principal Meridian

T. 30 N., R. 104 W.,
Sec. 6, lots 6 and 7;
T. 30 N., R. 105 W.,
Sec. 1, NE¼SE¼.

The land described contains 115.28 acres.

All minerals in lots 6 and 7 of sec. 6, T. 30 N., R. 104 W., are outstanding of record in third parties.

A one-half undivided interest in all minerals in the NE¼SE¼ of sec. 1, T. 30 N., R. 105 W., is included in the conveyance to the United States.

Hillary A. Oden,

State Director.

[FR Doc. 88-2964 Filed 2-10-88; 8:45 am]

BILLING CODE 4310-22-M

[CA-940-07-4520-12; Group 947]

Filing of Plat of Survey; California

February 3, 1988.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Marin County

T. 2 and 3 N., R. 8 W.

2. This plat, representing the survey of a portion of the boundary of the Golden Gate National Recreation Area in Tps. 2 and 3 North, Range 8 West, Mount Diablo Meridian, California under Group No. 947, was accepted January 25, 1988.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the National Park Service.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Feburary 3, 1988.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 88-2966 Filed 2-10-88; 8:45 am]

BILLING CODE 4310-40-M

[NV-930-08-4212-22]

Filing of Plats of Survey; Nevada

February 1, 1988.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the latest filing of Plats of Survey in Nevada.

DATES: Filings were effective at 10 a.m. on January 27, 1988.

FOR FURTHER INFORMATION CONTACT: Lacel Bland, Chief, Branch of Cadastral Survey, Nevada State Office, Bureau of Land Management, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520, (702) 784-5484.

SUPPLEMENTARY INFORMATION: The plats of Survey of lands described below were officially filed at the Nevada State Office, Reno, Nevada.

Mount Diablo Meridian, Nevada

T. 19 N., R. 44 E.—Dependent Resurvey.
T. 24 N., R. 37 E.—Supplemental Plat.
T. 47 N., R. 64 E.—Supplemental Plat.

These surveys were accepted on December 22, 1987. T. 19 N., R. 44 E., was executed to meet certain administrative needs of the U.S. Forest Service. The supplemental plats for T. 24 N., R. 37 E., and T. 47 N., R. 64 E., were executed to meet certain administrative needs of the Bureau of Land Management. All of the above-listed plats are now the basic record for describing the lands for all authorized purposes. The plats will be placed in the open files in the BLM Nevada State Office and will be available to the public as a matter of information. Copies of the plats and related field notes may be furnished to the public upon payment of the appropriate fee.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 88-2967 Filed 2-10-88; 8:45 am]

BILLING CODE 4310-HC-M

[NM-940-08-4220-11; NM NM 63992]

Proposed Continuation of Withdrawal; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that a 1,761.01-acre withdrawal for the Caballo Dam and Reservoir continue for an additional 50 years. The land will remain closed to surface entry and mining, but has been and will remain open to mineral leasing.

DATE: Comments should be received by May 11, 1988.

ADDRESS: Comments and meeting requests should be sent to the New Mexico State Director, BLM, P.O. Box 1449, Santa Fe, New Mexico 87504-1449.

FOR FURTHER INFORMATION CONTACT: Kay Thomas, BLM, New Mexico State Office, 505-988-6589.

The Bureau of Reclamation proposes that the existing land withdrawal made by Secretarial Order of June 3, 1926, be continued for a period of 50 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

New Mexico Principal Meridian

T. 14 S., R. 4 W.,
Sec. 31, SW¼NE¼.

T. 15 S., R. 4 W.,
Sec. 4, lot 7;
Sec. 9, lot 1;
Sec. 17, NE¼NE¼, SW¼SE¼;
Sec. 19, lot 3;
Sec. 20, W½NE¼;
Sec. 29, NE¼NW¼, NE¼SW¼.

T. 16 S., R. 4 W.,
Sec. 6, lots 1, 8, 9, E½SE¼;
Sec. 7, E½E½;
Sec. 18, W½NE¼, NW¼SE¼, N½SW¼SE¼;
Sec. 19, N½NE¼NE¼, S½NW¼NE¼, SW¼NE¼, NE¼SE¼.

T. 15 S., R. 5 W.,
Sec. 12, NE¼SE¼;
Sec. 36, NW¼.

T. 16 S., R. 5 W.,
Sec. 1, N½SW¼, SW¼SW¼;
Sec. 12, S½NW¼, SW¼;
Sec. 13, SW¼;
Sec. 24, SW¼NE¼.

The area described contains 1,761.01 acres in Sierra County.

The purpose of the withdrawal is to protect the Caballo Dam and Reservoir Project. The dam serves as a combined flood-control and power-release regulating reservoir. No change is proposed in the purpose or segregative effect of the withdrawl. The land will continue to be withdrawn from surface entry and mining, but not from mineral leasing.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present

their views in writing to the New Mexico State Director at the address indicated 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 its resources. A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether 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.

Larry L. Woodard,

State Director.

Dated: January 29, 1988.

[FR Doc. 88-2968 Filed 2-10-88; 8:45 am]

BILLING CODE 4310-FB-M

[UT-060-08-4212-13]

Intent To Amend Grand Resource Area Resource Management Plan, Grand and San Juan Counties, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent—Plan Amendment for the Grand Resource Area Resource Management Plan, Grand and San Juan Counties, Utah.

SUMMARY: This notice of intent is to advise the public that the Bureau of Land Management (BLM) intends to amend an existing planning document.

SUPPLEMENTARY INFORMATION: The BLM is proposing to amend the 1985 Grand Resource Area Resource Management Plan which includes public lands in Grand and San Juan Counties, Utah. The purposes of the amendment would be to identify certain lands as suitable for disposal and acquisition by exchange, and to identify areas which will be closed to mineral material disposal.

The lands to be identified for disposal by exchange comprise 140.00 acres, described as follows:

Salt Lake Meridian, Utah

T. 24 S., R. 22 E.,
Sec. 35, S½NE¼, N½N½ SE¼, and N½S½N½SE¼.

The lands to be identified for acquisition by exchange comprise 162.64 acres, described as follows:

Salt Lake Meridian, Utah

T. 24 S., R. 23 E.,
Sec. 2, lots 2, 3, 4, 5, 8, and 9.

The existing plan does not identify these lands for disposal or acquisition. However, because of the resource values and objectives involved, the public interest may be well served by exchange of these lands.

The existing plan limits the sale of common verieties of minerals (sand, gravel, pumice, clay, etc.) to the 6,000 acres identified in the plan. To better serve the public, state and counties needs, the entire resource area will be reviewed for salable mineral disposal, with the exception of Wilderness Study Areas and existing mineral withdrawals.

For 30 days from the date of publication of this notice the BLM will accept comments on these proposals. There will also be an opportunity for public comment on the final planning decisions.

Existing planning documents and information are available at the Grand Resource Area Office, P.O. Box M, Sand Flats Road, Moab, Utah 84532, phone: (801) 259-8193.

FOR FURTHER INFORMATION CONTACT: Colin P. Christensen, Grand Resource Area Manager.

Dated: January 28, 1988.

Kemp Conn,

Acting State Director.

[FR Doc. 88-2965 Filed 2-10-88; 8:45 am]

BILLING CODE 4310-22-M

Bureau of Mines

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

A request extending the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone 202-395-7340.

Title: Railroad Agents Report of Shipment of Minerals and Mineral Products.

Abstract: The Bureau's work of collecting and compiling mineral data is supervised by persons who have scientific and practical knowledge of the subject and a personal acquaintance with both the producing and consuming establishments. These personnel use Form 6-1198-Q, Railroad Agents Report of Shipments of Minerals and Products, to obtain general information on mines not presently on 6-1198-Q indicates the mine is currently producing a mineral for which the Bureau collects data, the company operating the mine is added to the appropriate survey frame and mailed the corresponding information collection.

Bureau Form Number: 6-1198-Q
Frequency: Quarterly
Description of Respondents: Railroad agents handling mineral products
Annual Responses: 33
Annual Burden Hours: 66
Bureau Clearance Officer: James T. Hereford 202-634-1125

February 3, 1988.

David S. Brown,

Deputy Director, Bureau of Mines.

[FR Doc. 88-2969 Filed 2-10-88; 8:45 am]

BILLING CODE 4310-53-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-6 (Sub-No. 296X)]

Burlington Northern Railroad Co.; Abandonment Exemption; Stearns and Kandiyohi Counties, MN

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from prior approval under 49 U.S.C. 10903 *et seq.*, the abandonment by Burlington Northern Railroad Company of 18.66 miles of track in stearns and Kandiyohi Counties, MN subject to standard labor protective conditions.

DATES: This exemption is effective on March 12, 1988. Petitions to stay must be filed by February 26, 1988, and petitions for reconsideration must be filed by March 7, 1988.

ADDRESSES: Send pleadings referring to Docket No. AB-6 (Sub-No. 296X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
(2) Petitioner's representative: Peter M. Lee 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 275-7245.
[TDD for hearing impaired: (202) 275-1721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase

a copy of the full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289–4357/4359 (DC Metropolitan area). (assistance for the hearing impaired is available through TDD services (202) 275–1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

Decided: February 2, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Sterrett, Simmons, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 88–2884 Filed 2–10–88; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act; Shell Oil Co.

In accordance with Departmental policy, 28 CFR 50.7, and pursuant to section 122(d)(2) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9622(d)(2), notice is hereby given that a proposed Consent Decree in *United States v. Shell Oil Company*, Civil Action No. 83–C–2379 (Consolidated), was lodged with the United States District Court for the District of Colorado (Judge Jim R. Carrigan) on February 1, 1988.

The consent decree will settle litigation between the United States and Shell over the cleanup of the Rocky Mountain Arsenal, an approximately 27-square mile Federal enclave near Denver, Colorado.

Over the past 40 years the Arsenal has been managed by the United States Army as a weapons manufacturing and demilitarization facility and portions of the Arsenal have been leased to Shell for the manufacture of herbicides and pesticides. Both the operations of Shell and the Army resulted in the production of hazardous waste which was released into the Arsenal environment.

The consent decree established a process by which the Army and the Environmental Protection Agency (EPA), in cooperation with Shell and the State of Colorado, will clean up the Arsenal pursuant to CERCLA. The decree also establishes a formula under which Shell will reimburse the United States for a percentage of the cleanup costs.

The United States will receive, for a period of 45 days from the date of this publication, comments on the proposed consent decree. Comments should be addressed as follows:

Col. Wallace Quintrell, Program Manager, Office of the Program Manager, RMA Contamination Cleanup, ATTN: AMXR–PM, Aberdeen Proving Ground, Maryland, 21010–5401

All comments received within the comment period will be reviewed by the Department of Justice, the Army and EPA, in consultation with Shell. If comments received do not indicate a need for substantial revisions to the proposed consent decree, the United States will prepare a summary of the comments received and submit that summary to the District Court, together with the United States' responses to those comments, and ask the Court to sign and enter the decree. If the comments received indicate a need for substantial revisions to the decree, it will be withdrawn from the Court for further consideration. Any substantially revised version of the decree will then be made available for additional public comment.

The Federal agencies involved in the settlement have also scheduled a public meeting on the proposed consent decree. Interested members of the public are encouraged to review the decree prior to attending this meeting so that they are familiar with its terms. The time and place of the public meeting are as follows:

February 17, 1988 at 7:30 pm, The Clarion Airport Hotel, 3203 Quebec Street, Denver, Colorado 80207.

In light of the length and complexity of the proposed consent decree, the United States has prepared a synopsis of the settlement agreement which describes and explains its key provisions. A copy of this synopsis will be available to the public along with the proposed decree.

Copies of the proposed consent decree and the synopsis referred to above are available for public review during normal business hours at the following location:

Rocky Mountain Arsenal Public Document Facility, Security Office, Room 15, Entrance Gate, 72nd Avenue and Quebec Street, Commerce City, Colorado, (No Security Badge Needed);

Commerce City Public Library, 7185 Monaco Street, Commerce City, Colorado;

U.S. Environmental Protection Agency, Technical Library, Public Comment Section, 999 18th Street, Denver, Colorado;

Environmental Enforcement Section, Land and Natural Resources Division, U.S. Department of Justice, Room 1517, 9th Street and Pennsylvania Avenue NW., Washington, DC 20530.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88–2900 Filed 2–10–88; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Industrial Science and Technological Innovation; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting.

Name: Advisory Committee for Industrial Science and Technological Innovation

Date and Time: March 2–3, 1988; 8:30 a.m.—5:00 p.m.

Place: National Science Foundation, 1800 G Street, NW., Room 1242, Washington, DC 20550

Type of Meeting: Open.

Contact Person: Mr. Robert D. Lauer, Section Head, Division of Industrial Science and Technological Innovation (ISTI), Room 1250, National Science Foundation, Washington, DC 20550 (202) 357–7527.

Summary of Minutes: May be obtained from the contact person at the above address.

Purpose of Committee: To provide review advice and recommendations concerning support of research programs administered in the Division.

Agenda:

March 2, 1988; 8:30 am–12:00—Review & discussion of current ISTI activities. Briefing on new ISTI International Industry/University/Government Cooperative Research Initiative followed by open discussion.

12:00–1:30 Lunch

1:30 pm–5:00 pm—Review and discussion of the effect of the Small Business Development Act on NSF research programs.

March 3, 1988; 8:30 am–10:30 am—Review of ISTI budget, operations and long range plans.

10:30 am–12:00 noon—Comments from the advisory committee relative to the Small Business Development Act.

12:00 noon–1:30 pm Lunch

1:30–5:00 pm—Further discussion of

ISTI activity as needed.

M. Rebecca Winkler,

Committee Management Office.

February 5, 1988.

[FR Doc. 88-2970 Filed 2-10-88; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Physics; Subcommittee for the Review of the NSF Theoretical Physics Program; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Committee for Physics; Subcommittee for the Review of the NSF Theoretical Physics Program.

Date and Time: February 29, 1988, 8:30 a.m. to 6:00 p.m.

Place: Room 540B, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Gerard M. Crawley, Director, Division of Physics, Room 341, National Science Foundation, Washington, DC 20550, (202) 357-7985.

Minutes: Will be part of the minutes of the full Committee meeting in May 1988.

Purpose of Meeting: To provide oversight concerning NSF support and planning for research in theoretical physics.

Agenda: To review NSF Theoretical Physics Program documentation as part of the program oversight function.

Reason 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 peer review documentation pertaining to the applicants. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

February 5, 1988.

[FR Doc. 88-2971 Filed 2-10-88; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Physics; Subcommittee for the Review of the NSF Gravitational Physics Program; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Committee for Physics; Subcommittee for the Review of the NSF Gravitational Physics Program.

Date and Time:

March 3, 1988, 8:30 a.m. to 6:00 p.m.

March 4, 1988, 8:30 a.m. to 6:00 p.m.

Place: Room 540B, National Science Foundation, 1800 G Street NW., Washington, DC 20550

Type of Meeting: Closed

Contact Person: Dr. Gerard M. Crawley, Director, Divison of Physics, Room 341, National Science Foundation, Washington, DC 20550, (202) 357-7985.

Minutes: Will part of the minutes of the full Committee meetings in May 1988.

Purpose of Meeting: To provide oversight concerning NSF support and planning for reserach in gravitational physics.

Agenda: To review NSF Gravitational Physics Program documentation as part of the program oversight function.

Reason 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 peer review documentation pertaining to the applicants. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.

February 5, 1988.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 88-2972 Filed 2-10-88; 8:45 am]

BILLING CODE 7555-01-M

Advisory Subcommittee for Science and Engineering Education; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Committee for Science and Engineering Education.

Date and Time:

Thursday, March 3, 1988, 9:00 am-5:00 pm.

Friday, March 4, 1988, 9:00 am-3:00 pm.

Place: Room 540, National Science Foundation, 1800 G Street, NW., Washington, DC.

Type of Meeting: Open.

Contact Person: Mr. James D. Smith, Administrative Officer, Directorate for Science and Engineering Education, Room 516, Washington, DC 20550, (202) 357-7926.

Summary Minutes: May be obtained from contact person listed above.

Purpose of Committee: To provide advice and recommendations concerning NSF support for science and engineering education.

Agenda: March 3-4, 1988

Review of FY 1987 Programs and Initiatives.

Review of FY 1988 Programs and Initiatives.

Strategic Planning for FY 1989 and Beyond.

M. Rebecca Winkler,

Committee Management Officer.

February 5, 1988.

[FR Doc. 88-2973 Filed 2-10-88; 8:45 am]

BILLING CODE 7555-01-M

Task Force on Women, Minorities and the Handicapped in Science and Technology; Meeting and Public Hearing

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Task Force followed by a public hearing on March 2, 1988, followed by a meeting of the Task Force on March 3, 1988.

Public Hearing

Name: Task Force on Women, Minorities, and the Handicapped in Science and Technology.

Date: March 2, 1988.

Time: 10:00 a.m. to 5:00 p.m.

Place: Gallery of the Woodruff Library, Clark College of the Atlanta University Center, Inc., 111 James P. Brawley Drive SW., Atlanta, Georgia 30314.

Purpose: The Task Force will seek testimony from interested parties on innovative ways to increase opportunities for women, minorities and the handicapped in science and technology in the areas of employment, research, higher education, precollege education and social aspects.

Testimony will be heard in three ways: (1) Scheduled testimony of ten-minute summary presentations accompanied by longer written statements and supporting documents for the record; (2) summary statements from the floor of three-minute duration accompanied by any longer written statements or materials for the record; and (3) written testimony submitted to the Task Force offices from those who cannot be heard because of time constraints of those who cannot attend.

Anyone wishing to testify or submit a statement for the record should write Sue Kemnitzer, Executive Director.

Task Force on Women, Minorities, and the Handicapped in Science and Technology, 330 C Street SW., Washington, DC 20201.

The public hearing will be followed by a discussion of the testimony by the Task Force members on March 3, 1988.

Meeting

Name: Task Force on Women, Minorities, and the Handicapped in Science and Technology.
Date: March 3, 1988.
Time: 8:00 a.m. to 12:00 noon.
Place: Radisson Hotel-Atlanta, Courtland and International Boulevard, Atlanta, GA 30303.
Type of Meeting: Open.
Purpose: The purpose of the Task Force on Women, Minorities and the Handicapped is to:

—Examine the current status of women, minorities and the disabled in science and engineering positions in the Federal government and in federally-assisted research programs;
—Coordinate existing Federal programs designed to promote the employment of women, minorities and physically disabled scientists and engineers;
—Suggest cooperative interagency programs for promoting such employment;
—Identify exemplary programs in the state, local or private sectors and;
—Develop a long-range plan to advance opportunities for women, minorities, and disabled persons in science and technology.

Agenda: Reports will be heard on progress of the subcommittees on Employment, Research, Higher Education, Precollege Education and Social Aspects, as well as other businesses of the Task Force.

All meetings and public hearings of the Task Force are open to the public and all proceedings will be recorded and will be available at the Task Force offices.

January 25, 1988.

Sue Kemnitzer,
Executive Director, (202) 245-7477.

[FR Doc. 88-2974 Filed 2-10-88; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Nuclear Safety Research Review Committee; Meeting

The Nuclear Safety Research Review Committee (NSRRC) will hold its initial meeting on February 17 and 18, 1988, Room P-114, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland. Prior notice of this meeting was published in the **Federal Register** (53 FR 1423) on January 19, 1988. The entire meeting will be open to public attendance.

The meeting will begin at 8:30 a.m. on February 17 and at 8:45 a.m. on February 18. The primary objective of this initial meeting will be for the Nuclear Regulatory Commission (NRC) staff to provide the Committee with information on the NRC nuclear safety research program and give the Committee an opportunity to request any additional information it deems necessary so that it can provide advice and recommendations concerning the overall management and direction of the program.

Further information regarding topics to be discussed can be obtained from Mr. R.L. Shepard (telephone 301/492-3710).

Dated: February 8, 1988.

John C. Hoyle,
Advisory Committee Management Officer.

[FR Doc. 88-2944 Filed 2-10-88; 8:45 am]
BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-25307; File No. SR-NASD-87-47]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 28, 1987 the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The following is the full text of a new section 67 to the NASD's Uniform Practice Code:

Settlement of Underwritten Public Offerings

Section 67

The syndicate manager of a public offering underwritten on a "firm-commitment" basis shall, immediately, but in no event later than the scheduled closing date, notify the Uniform Practice Department of the NASD of any anticipated delay in the closing of such offering beyond the closing date in the offering document or any subsequent delays in the closing date previously reported pursuant to this section.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of any basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The NASD proposes to add a new section 67 to its Uniform Practice Code which would require the syndicate manager of a public offering underwritten on a "firm-commitment" basis to immediately, but no later than the anticipated closing date, notify the NASD's Uniform Practice Department of any anticipated delay in the closing date beyond the closing date in the offering document or beyond the delayed date previously reported to the NASD in compliance with the provision. The Uniform Practice Department can then ensure that secondary market transactions in the securities to be issued, trade on a "when, as and if issued" basis, rather than a "regular way" basis, if the closing is significantly delayed or, if no closing is to occur, the transactions can be cancelled.

These changes are consistent with section 15A(b)(6) of the Act, which requires that the NASD's rules promote just and equitable principles of trade and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change does not impose any burden

on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–87–47 and should be submitted by March 3, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Dated: February 4, 1988.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88–2905 Filed 2–10–88; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–25313; File No. SR–NYSE–87–50]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Bond Listing Fees

The New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted on December 7, 1987, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") 15 U.S.C. 78(b)(1) and Rule 19b–4 thereunder to revise the Exchange's bond listing fees. The proposed revisions would, among other things, modify the current fee schedule for initial bond listings as well as fees for relisting a bond or effecting a change in obligor, effective January 1, 1988. In addition, the proposal establishes a new fee structure, for 18 months from the effective date of this order, for unlisted outstanding debt.[1]

Notice of the proposal together with its terms of substance was given by issuance of a Commission release (Securities Exchange Release No. 25232, December 29, 1987) and by publication in the **Federal Register** (53 FR 191). No comments were received concerning the proposal.

Under the proposed rule change, the Exchange's revised schedule of bond listing fees would consist of three categories of fees: new initial listing fees that are based upon the maturity of the bond issues and its size, new reduced fees for listing outstanding unlisted debt issues, and a new flat fee for a relisting or change in obligor. The new fees for initial bond listings are based upon four maturity ranges (1–5 years, 6–14 years, 15–25 years, and 26+ years), a standard base rate at each maturity range for the first $500 million dollar par value, and regressive rates for the remaining par value at $250 million dollar par value increments.[2] The Exchange indicates that the restructured initial listing fee rates represent an overall 6% increase in listing fee revenues. In addition to providing increased listing fee revenue to cover costs, the NYSE believes that the new fee structure will more equitably allocate initial bond listing fees among issuers.

In addition, the Exchange proposes to adopt, for 18 months from the effective date of this order, new reduced fees for outstanding unlisted debt of NYSE issuers. Under the 18 month program, the fees assessed to participate issuers with eligible debt [3] will be based upon the remaining life of the bond issue, its par value size and the revised initial listing fee schedule. The fees for such issues will be half of the calculated rate.[4] Moreover, the Exchange indicates that, in addition to being available to existing issuers, the 18 month program will be made available to any equity issuer listing on the NYSE for the first time after the effective date of the program, (but prior to its expiration), for eighteen months from its stock's listing date (provided the bond issue qualifies for the program). Finally, the exchange proposes to charge a $2500 flat fee (per issue) for a relisting or change in obligor in place of the current $42 per million dollars of par value.

After careful review the Commission believes that the proposed revisions to the Exchange's bond listing fees are reasonable. In particular, the restructuring of the schedule of initial listing fees by using a graduated fee scale based on maturity range and par value should enable the NYSE to allocate these fees more equitably among issuers as well as to recover some of the costs associated with listing bonds. In addition, the eighteen month program of reduced fees for outstanding unlisted debt should enable issuers with outstanding bond issues to list such debt on the NYSE at lower costs. Previously, the initial bond listing fees were applicable to these outstanding issues. Finally, the flat fee for relisting an issue or changing the obligor appears reasonable and may result in a reduced fee in some cases. Based on the above, we believe the revised fees are consistent with section 6(b)(4) of the Act which contemplates the equitable allocation of reasonable dues, fees, and other charges among Exchange members and other persons using its facilities. Accordingly, the Commission believes that the proposed rule change should be approved as submitted.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the

[1] Currently, the Exchange's schedule of bond listing fees consists of two categories. The first category of fees involves initial listing fees, including outstanding unlisted debt, which are based on the maturity of the particular bond issue. Bond issues with a maturity of 5 years or less are charged a flat rate of $82 per million dollar par value, while a flat rate of $225 per million dollar par value is assessed for bond issues with a maturity range that exceeds five years. The other category of listing fees involves fees for relisting a bond issue or altering its obligor. Such fees are calculated at a flat rate of $42 per million dollar par value.

[2] *See*, Securities Exchange Act Release No. 25232 (December 29, 1987) 53 FR 191, footnote 1 and accompanying text.

[3] An issuer may participate in the program if its unlisted debt has been outstanding for a minimum of one year.

[4] *See*, Securities Exchange Act Release No. 25232 (December 29, 1987) 53 FR 191, footnote 2 for an example of a fee calculation under the new fee structure.

proposed rule change, be and is, hereby approved. For the Commission by the Division of Market Regulation pursuant to delegated authority.

Dated: February 4, 1988.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88-2906 Filed 2-10-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25312; SR-NYSE-86-22]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

I. Introduction

The New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted on July 16, 1986, copies of a proposed rule change pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] that would, among other things, amend the registration and reporting requirements for employees of member firms under NYSE Rule 345, expand the definition of the term registered representative under NYSE Rule 10, and adopt an ethics agreement for securities lending representatives as an addendum to Form U-4.

The significant changes proposed by the NYSE include: requiring registration of securities lending representatives, securities traders, and their direct supervisors under NYSE Rule 345; expanding the definition of the term registered representative under NYSE Rule 10 to include employees involved in the handling of accounts or orders for the purchase or sale of securities or handling of business in connection with investment advisory or investment management services; and requiring that securities lending representatives and their direct supervisors sign a "code of ethics" agreement as an addendum to their Form U-4 that commits them to comply with the policies and procedures of their employer, applicable federal and state securities laws, and the Constitution and rules of the NYSE.

The NYSE states that the proposed requirement under NYSE Rule 345 for the registration of securities lending representatives, securities traders, and their direct supervisors will provide the Exchange with a measure of control, including the ability to track employment history, over individuals engaged in those activities for NYSE member firms.[3] The NYSE believes registration of these persons is appropriate in view of the increasing volume and sensitive nature of their activities. The NYSE states that the expanded definition of the term registered representative in NYSE Rule 10 is intended to clarify that those persons who handle accounts or orders and/or provide investment advisory or management services must register with the Exchange. Finally, the NYSE states that the proposed addendum to Form U-4 is intended to remind securities lending representatives and their direct supervisors of their obligation to comply with the rules of their employers, the Exchange and Federal and state law.[4]

The NYSE also has proposed a series of other changes to the Supplementary Material to Rule 345. These changes include: A requirement that the information on a registered representative's Form U-4 be kept current and that updates to Form U-4 be filed with the Exchange; a provision requiring member firms to verify the information contained on a potential employee's Form U-4; the addition of a two month training requirement for limited purpose registered representative candidates; [5] and, a provision requiring notification to the Exchange of termination of employment of a registered person, by requiring that such termination should be reported promptly but in any event no later than 30 days following the termination. The Exchange states that these changes are intended to delete outdated material and structure other material in a logical and concise manner.

II. Comments on the NYSE Proposal

The proposed rule change was noticed in Securities Exchange Act Release No. 23509, August 6, 1986, and published in the **Federal Register** (51 FR 29177, August 14, 1986). The Commission received four letters commenting on the NYSE proposal.[6] One letter, from the Chase Manhattan Bank, N.A. ("Chase Manhattan"), expressed support for the proposal and stated that the change "would provide a measure of control and add a degree of professionalism" to its securities lending program and the industry generally. Three other comment letters, one from Merrill Lynch and two from Alex. Brown, were critical of portions of the NYSE proposal and recommended that particular changes not be approved by the Commission. These comments are summarized below.

Merrill Lynch, while expressing support for the proposal's underlying purposes, identified several portions of the NYSE proposal that it opposed or that it believed needed clarification. Merrill Lynch supported the proposed registration requirement for securities lending representatives and their direct supervisors. In its letter, however, it stated that the NYSE needed to clarify whether securities lending representatives would be required to pass a qualifying exam or complete a training period. In addition, Merrill Lynch opposed the proposed requirement that securities lending representatives sign a "code of ethics" agreement and submit it to the Exchange as an addendum to their Form U-4. In the firm's view an additional code of conduct is unnecessary because under Form U-4 applicants currently certify that they will abide by and comply with state and self-regulatory organization laws and rules.

Merrill Lynch also opposed the proposed change to the definition of the term registered representative which would be amended to include employees involved in "handling" of accounts or orders or "handling of business" in connection with investment advisory or investment management services. Merrill Lynch stated that it believes that the use of the term "handling" in the NYSE proposal is so vague that the new definition could include persons engaged in administrative support and ministerial duties relating to customer accounts. Merrill Lynch argued that the proposal, if approved by the Commission, would result in a significant expansion of the definition of the term "registered representative" and that such an expansion is beyond any proper regulatory purpose. Finally,

---

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1987).

[3] The NYSE notes that the revised registration requirements in Rule 345 were formulated on the basis of recommendations of an Exchange Committee and the Securities Industry Lending Task Force ("Task Force") which is comprised of representatives of the securities industry and of self-regulatory organizations ("SROs"), *i.e.*, NYSE, National Securities Clearing Corporation, and the Depository Trust Company. The Task Force specifically was formed to address issues arising from the dramatic increase in the securities lending industry.

[4] The NYSE states that this addendum to Form U-4 was developed at the request of, and in conjunction with, the Task Force.

[5] Under proposed NYSE Rule 345.15(3) the Exchange will consider applications for limited purpose registered representative for persons whose activities are limited solely to the solicitation or handling of the sale or purchase of: investment company securities and variable contracts, insurance premium funding programs, direct participation programs, and municipal securities.

[6] *See* letters from: Alex. Brown & Sons ("Alex. Brown"), to Jonathan G. Katz, Secretary, Commission ("Secretary"), dated September 25, 1986, and October 16, 1986; The Chase Manhattan Bank, N.A. to Jonathan G. Katz, Secretary, dated September 15, 1986; Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch"), to Jonathan G. Katz, Secretary, dated October 23, 1986.

Merrill Lynch stated that the proposed provision that would require information on an employee's Form U–4 to be kept current and updated by filing amendments with the Exchange should be revised to clearly state that this is the obligation of the registered person and not the member or member organization.

The two comment letters from Alex. Brown expressed many of the same objections to the NYSE proposal that were advanced by Merrill Lynch. In addition, Alex. Brown stated that it had reservations about several other aspects of the NYSE proposal. Alex. Brown questioned the Exchange's need to have securities traders register and require such persons to pass a qualifying examination, particularly the Series 7 exam. It also stated that some provision should be made in the proposed rule to grandfather in persons that would be subject to the expanded registration requirements under NYSE Rule 345 when the rule change is implemented.

Alex. Brown also expressed concern about the proposed changes to the definition of the term registered representative under NYSE Rule 10. First, the firm stated that the expanded definition is too broad and could potentially require registration of wire operators, clerks and other administrative and support personnel. Second, Alex. Brown believes the inclusion of portfolio managers in the definition of the term registered representative is inappropriate and can place NYSE members who are also investment advisors at a competitive disadvantage with investment advisors who are not NYSE members.

Finally, Alex. Brown objected to the proposed provision in the Supplementary Material to NYSE Rule 345 that would require member firms to verify the information on an employee's Form U–4, contending that such a task is arduous, if not impossible, to perform.

III. Discussion

The Commission has reviewed carefully the proposed rule change in light of the comment letters we received from Chase Manhattan, Merrill Lynch and Alex. Brown and the explanations and clarifications we have received form the NYSE [7] regarding the scope and effect of the proposal. For the reasons discussed below, the Commission has determined that the proposed rule change is consistent with the requirements of the Act and should be approved.

The NYSE states in its filing that the proposed requirement for the registration of securities lending representatives, securities traders who trade for their employer's account and who do not deal with the public,[8] and their direct supervisors was developed to provide employers and the Exchange a measure of control, including the ability to track employment history, over persons engaged in these activities. In this regard, the NYSE noted the increased importance of trading on behalf of member organizations and the dramatic increase in the securities lending business. The NYSE views the registration of such persons as particularly appropriate in view of the increasing volume in, and the sensitive nature of, such trading activities.

The Commission believes that the proposed expanded registration requirements are reasonable and consistent with the requirements of sections 6(b)(5) and 6(c)(3)(B) [9] of the Act. In light of current developments in the business activity of members and member firms, it is consistent with the Exchange's regulatory responsibilities to monitor the activities of securities traders and securities lending representatives. As the NYSE indicated in its filing, an increasing number of firms have been involved in the securities lending business. Moreover, the Commission has identified instances of abuse associated with brokerage firms' securities lending activities.[10] Further, NYSE member firms maintain securities traders that, while not dealing directly with the public, are involved in handling a large number of securities transactions for broker-dealers. These transactions, either singularly or in aggregate, often involve vast sums of money. Although lenders and traders do not deal directly with the public, we believe that requiring their registration with the Exchange and assuring that they have adequate qualifications will ultimately protect investors and the public interest, particularly when a large part of member firm resources appear to be directed to these activities.

In order to be registered by the Exchange, a securities trader will have to pass the General Securities Representative (Series 7) examination,[11] but will not have to complete a specific training period as is required for registered representatives. Pursuant to section 6(c)(3)(A) of the Act,[12] an exchange may examine and verify the qualifications of persons associated with a member in accordance with procedures established by the rules of the exchange. The Series 7 exam is the exam used by the SROs to test the general knowledge of registered representatives. The Commission finds that the Series 7 exam is sufficient in scope and depth to ensure that traders are adequately qualified.[13]

We also note that NYSE Rule 345.15(1)(b) allows individuals applying for registration with the NYSE to be granted a waiver from the training and examination requirements where good cause is shown. The Exchange has indicated that requests for waiver of the examination requirement will be reviewed for securities traders in light of several factors, such as the length and type of previous employment and the examination requirements of other SROs.[14] The Commission believes that this provision is reasonable and will enable the Exchange to waive the examination requirements for those persons that have demonstrated sufficient qualifications by virtue of their prior work experience and the training and examination standards of

---

[7] *See* letter from Donald Siemer, Director, Rule and Interpretive Standards, NYSE, to Sharon Lawson, Branch Chief, Division of Market Regulation, dated July 16, 1987 ("NYSE Letter").

[8] Securities traders that deal with the public and their direct supervisors already are required to register with the Exchange under NYSE Rule 345.

[9] 15 U.S.C. 78f(C)(3)(B) (1982). This section states that a national securities exchange may require any person associated with a member, or any class of such persons, to be registered with the exchange in accordance with established procedures.

[10] *See, e.g.*, SEC v. Paul Alampi, Litigation Release No. 10654, January 11, 1985; SEC v. Victor Schipo, Litigation Release No. 9967, April 19, 1983.

[11] Hereafter referred to as the "Series 7 exam." We note that unlike the requirements applicable to registered representatives, there is no mandated training period for securities traders or their supervisors. In addition, securities lending representatives and their supervisors are not required to meet any training or examination requirements in order to register.

[12] 15 U.S.C. 78f(c)(3)(A) (1982).

[13] *See* Securities Exchange Act Release No. 23325, June 16, 1986, 51 FR 22874.

The Commission notes that the Series 7 exam is a general exam intended to test the applicant's knowledge on a broad range of topics necessary to insure an applicant's ability to function as a general registered representative. In this regard, the Series 7 exam tests specific areas of knowledge of the securities business that are not related to the work of securities traders. The commission urges the NYSE to consider establishing a separate examination for securities traders that would be different from the Series 7 exam, by focusing in detail on the particular functions of the securities trader. As noted below, the NYSE is considering establishing a separate category of registration and examination for order taker employees. Until such a revised examination is available for securities traders, the Commission believes that it is appropriate to require registration and passage of the Series 7 exam for securities traders because of their role in handling an increasingly large number of securities transactions for member firms.

[14] *See* Rule 345.15(1)(B). The NYSE will send a Notice to Members concerning adoption of amendments to NYSE Rules 345 and 10. The Notice will explain the procedures for an application of waiver from the exam requirement. *See* NYSE letter *supra*, note 7

other SROs. This provision is applicable to persons performing trading activities at the date of effectuation of this rule change. As noted above, the NYSE proposal would provide members and member organizations six months from the date of Commission approval of the proposal to register those persons who would become subject to the registration requirements of Rule 345. This is a sufficient period of time for persons to apply to be "grandfathered" into the exam requirement.

With regard to the proposed change in the definition of the term registered representative, the NYSE noted in its filing that Rule 10 currently defines registered representative, in part, in terms of "solicitation" of securities orders for customer accounts and solicitation of subscriptions to investment advisory or investment management services. The Exchange stated that the proposed change was intended to clarify that the term "registered representative" also includes employees of member firms who deal with public customers in respect to the handling of accounts or orders and/or providing investment advisory or managment services. As discussed above, Merrill Lynch and Alex. Brown both objected to the NYSE's expanded definition of registered representative, arguing that the term "handling" is too vague and could include persons engaged in administrative support and ministerial duties.

The NYSE has indicated that its revised definition for registered representative is intended to clarify that, among other things, employees of member firms (including discount broker-dealers) whose principal responsibility is to take unsolicited customer orders for the purchase or sale of securities (so called "order takers") are required to register with the Exchange as registered representatives. The Exchange did not, however, intend its revised definition of registered representative to require employees whose functions are solely and exclusively clerical and ministerial to register as a registered representative. Accordingly, the new definition of registered representative would not include such clerical or administrative positions as wire operators (*i.e.*, member organization order room personnel who do not take orders directly from the public and who deal exclusively and on a non-discretionary basis with other personnel of the same organization), or customer assistance personnel who take note of customer inquiries and seek to resolve them administratively, as well as certain other operations, administrative, and support functions.[15] The NYSE has agreed to clarify this interpretation in its Notice to Members. The Commission believes that this clarification adequately responds to the concerns of commentators regarding the scope of the proposed definition of registered representative.

As noted above, the NYSE revised definition would require order taker employees of member firms to register with the exchange as registered representatives. This would require such persons to meet the training and qualification requirements for registered representatives.[16] The NASD also requires order takers to be registered representatives and to take and pass the Series 7 exam.[17] The Commission believes that it is consistent with section 6(b)(5) of the Act for the NYSE to require order takers, that accept orders from public customers over the telephone, to meet the qualification requirements for registered representative. Because of the continued contact that order takers have with public customers, we believe that it furthers the protection of investors and the public interest for the NYSE to ensure that such persons are adequately trained and qualified through the use of the Series 7 exam. In this regard, however, the Commission notes that the NASD has circulated for member comment a proposal to establish a new level of registration for order taker employees of member firms which would require a less comprehensive examination.[18] The Commission understands that the NYSE is also considering establishing a separate category of registration for order takers that would entail a different examination than the Series 7 exam, in light of the restricted function of order takers. The Commission believes it is appropriate for the NYSE to examine whether, because of the somewhat limited function of these persons, a less comprehensive exam may be appropriate.[19] Indeed, the Court of Appeals for the Fourth Circuit urged the NASD to consider such an approach in reviewing the NASD's similar requirement.[20] Nevertheless, until such a revised examination is available the Commission believes it is still appropriate to require registration of so-called order takers because of their role in dealing with the public.

As noted previously, Alex. Brown was concerned that portfolio managers (*i.e.* persons that handle business in connection with investment management services) might be required to register under the expanded definition of the term registered representative in Rule 10. The NYSE has informed the Commission that, to the extent that portfolio managers deal with public customers regarding soliciting or handling transactions or servicing accounts, they would be required to register. This is consistent with the proposal's general objective of requiring registration of those employees of member organizations who deal with public customers in respect to soliciting or handling transactions or servicing accounts. In addition, the activities of portfolio managers who deal with the public by soliciting or handling transactions or servicing accounts appear to fall within the traditional notion of associated person under section 3(a)(18) of the Act.[21]

With regard to the NYSE's proposal to require securities lending representatives and their direct supervisors to sign a code of ethics agreement, the Commission recognizes that the proposed code of ethics agreement is not required of any other category of persons required to register with the Exchange. The Exchange, in conjunction with the Task Force, has determined that such an agreement

---

[15] *See Id.*

[16] As noted above, registered representatives must meet a 4 month training period and take and pass the Series 7 exam.

[17] Schedule C, Part III, section (1)(a) of the NASD By-Laws requires all persons associated with a member who function as representatives to register with the NASD. Section (1)(b) defines the term "registered representatives" as including: Persons associated with a member, including assistant officers other than principals, who are engaged in the investment banking or securities business for the member including the functions of supervision, solicitation or conduct of business in securities . . .

As with the proposed NYSE rule, the NASD exempts persons associated with a member whose functions are solely clerical or ministerial from the requirement to register. NASD By-Laws, Schedule C, Article V, section (1)(a). The NASD has construed this provision to require that order taker employees of member firms register as General Securities Representatives. This interpretation was upheld by the Commission and a federal appeals court. *See* In re Exchange Services, Inc., Securities Exchange Act Release No. 22245, July 10, 1985, 33 S.E.C. Doc. 1105, *aff'd*, Exchange Services, Inc. v. SEC, 797 F.2d 188 (4th Cir. 1986).

[18] *See* NASD Notice to Members 87-47, July 22, 1987. Under the NASD proposal, order takers would be required to register with the NASD, would be subject to statutory disqualification under federal securities laws and would remain subject to the fingerprint screening process. Such employees would not, however, be required to pass the Series 7 examination. In its place, the NASD would establish a qualification requirement commensurate with the order takers' more limited job responsibilities.

[19] Letter from Richard G. Ketchum, Director, Division of Market Regulation, to Gordon Macklin, President, NASD, dated April 6, 1987.

[20] 797 F.2d 188 at note 4.

[21] 15 U.S.C. 78c(a)(18) (1982).

would help reinforce to securities lenders their state, federal, regulatory, and employment obligations. The proposed agreement does not impose additional substantive obligations on securities lending representatives but simply highlights the existing obligations. The Commission concurs with the judgment of the SROs comprising the Task Force that code of ethics agreement will enhance securities lenders' regulatory compliance at almost no extra effort or expense.

In connection with the concerns expressed by Merrill Lynch and Alex. Brown on the responsibility of member firms to meet the proposed requirement in Rule 345.12 to keep information on Form U–4 current and provide the NYSE with updates, the NYSE has informed the Commission that the Notice to Members will state clearly that the registered person is required to keep the information on the Form U–4 current.[22] Member firms are only obligated to ensure that the amended Form U–4 is submitted to the Exchange in a timely manner. The Commission notes that Form U–4 already requires the registered person to update information on the form when changes occur. The Commission believes that this proposed NYSE requirement is reasonable and imposes no undue burden on either the registered representative or the member firm.

Finally, with regard to the concerns expressed by Alex. Brown concerning the proposed requirement in Rule 345.11 that member firms verify the information contained in the Form U–4, the NYSE has indicated that this provision is merely a restatement and clarification of the current verification requirements of member firms under Rule 345.18. In addition, the NYSE notes that member firms are required to certify on the Form U–4 that they have taken steps to verify the information contained on an applicant's Form U–4 and to communicate with each of the applicant's previous employers for the past three years.[23] Thus, the Commission believes that the requirement that NYSE member firms verify the information contained on an employee's Form U–4 is reasonable and appropriate and will not impose an additional burden on member firms.

IV. Conclusion

For the reasons discussed above, the Commission finds that the proposed changes to NYSE Rule 345 and its Supplementary Material, NYSE Rule 10, and the addendum to Form U–4 are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder. In particular, we note that the registration requirements for securities traders and securities lending representatives, coupled with the new definition of the term registered representative, should help to ensure adequate training and qualification for employees of member firms consistent with section 6(b)(5), 6(c)(3)(A) and 6(c)(3)(B) of the Act and aid the NYSE in its monitoring and surveillance responsibilities over member firms.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 4, 1988.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88–2907 Filed 2–10–88; 8:45 am]

BILLING CODE 8010–01–M

[22] *See* NYSE Letter, *supra*, note 13.

[23] See Form U–4.

[Release No. IC–16254; File No. 812–6678]

Charles D. Adams; Filing of Application

February 5, 1988.

Notice is hereby given that Charles D. Adams ("Adams"), 3500 Oak Road, Loganville, Georgia 30249, has filed an application and amendments thereto requesting an order of the Commission pursuant to section 9(c) of the Investment Company Act of 1940, as amended (the "Act"), that would grant a limited exemption from the prohibitions of section 9(a)(2) of the Act, applicable to him by virtue of an injunction entered in 1973. Adams requests relief only to the extent necessary to engage in the activities described herein.

Adams states that he is currently engaged as a consultant providing life insurance consulting services to A.L. Williams & Associates, Inc., a privately-held insurance agency. Adams further states that three subsidiaries of the A.L. Williams Corporation ("ALWC") have entered into a joint venture with three subsidiaries of American Capital Management and Research, Inc. ("ACMR"), an 83% subsidiary of Primerica Corporation. The joint venture has organized Common Sense Investment Advisers (a registered investment adviser), Common Sense Distributors (a registered broker-dealer), and Common Sense Shareholder Services (a registered transfer agent), which have in turn created, and will underwrite and provide shareholder services to, a registered investment company. Subject to the granting of relief, Adams proposes to act as a consultant to the joint venture. Adam's participation will consist of consulting with respect to marketing and marketing strategies, administrative systems, personnel development, sales force development and motivation business strategies, long range planning and contract strategy matters. Subject to the granting of relief, Adams proposes to provide similar consulting services to First American National Securities, Inc., a wholly-owned broker-dealer subsidiary of ALWC which will undertake retail distribution of the shares of the family of mutual funds managed by the joint venture.

On December 7, 1973, in an action entitled *SEC v. LSL Corporation,*[1] the United States District Court for the Eastern District of Texas entered an order of permanent injunction against Adams. The Commission's complaint alleged that Adams and others violated the federal securities laws in connection with the issuance and sale of common stock of Lifetime Security Life Insurance Company and LSL Corporation. The injunction entered against Adams enjoined him from future violations of section 17(a) of the Securities Act of 1933, section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5, and from aiding and abetting violations of Section 5(b) of the Securities Act.

Section 9(a)(2) of the Act applies to persons, who, by reason of any misconduct, have been enjoined from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security. The section prohibits these persons from serving or acting as an employee, officer, director, member of an advisory board, investment adviser, or depositor of any registered investment company, or principal underwriter for any registered open-end company, registered unit investment trust, or registered face-amount certificate company. Adams is subject to the prohibitions of section 9(a)(2) by vitue of the permanent injunction entered against him in 1973, and is therefore precluded by section 9(a)(2) from the proposed employment as a consultant to the affiliates of an investment adviser and the principal

[1] Civ. Action No. S–73–CA–71 (E.D. Tex. filed Oct. 31, 1973).

underwriter of an open-end investment company.[2]

Section 9(c) of the Act provides that, upon application, the Commission may grant, either unconditionally or on an appropriate temporary or conditional basis, an exemption from the provisions of section 9(a). The applicant must establish that the prohibitions of section 9(a), as applied to such person, are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or the protection of investors to grant such application.

Adams submit that the prohibitions of section 9(a) of the Act would be unduly or disproportionately severe as applied to him. Adams also submit that his conduct has been such as not to make it against the public interest or the protection of investors to grant the application. Adams therefore requests that the Commission, pursuant to section 9(c) of the Act, grant him a permanent exemption from the provisions of section 9(a) operative as a result of the injunction entered against him in 1973.

Adams makes the following representations in support of the application:

1. More than ten years have elapsed since the activities alleged in the Commission's action against Adams.

2. Except for the consent to entry of the permanent injunction in 1973 and the conviction of 1975 referred to above, no findings or judgments relating to violations of federal or state securities laws have ever been made by any court or administrative agency with respect to Adams.

3. Following the injunction, guilty plea and the completion of his period of incarceration, Adams has had an unblemished record. He has since that time worked in the life insurance field in several different management and consulting positions, and since 1980, has been engaged, full time, as a consultant providing life insurance consulting services to a privately held life insurance agency.

4. Adams has complied fully with the terms of the injunction.

5. The allegations of the complaint and the circumstances to which they relate in no way involve any activities of ALWC, ACMR, or any of their subsidiaries.

6. With respect to Adams' proposal to provide consulting servies to ALWC, ACMR and their affiliated entities, Adams will have no authority to carry out any policy, undertaking or decision he may recommend and will not have access to customers' funds or securities in connection with brokerage and investment advisory operations.

7. Continuance of the prohibitions of section 9(a) would deprive Adams of his ability to act as consultant in the capacity described above, and would deprive ALWC and ACMR and their affiliated entities of his services because of allegations that are more than ten years old and that were settled by consent.

In addition, submitted as exhibits to the application are affidavits with respect to Adams' character and reputation in the business community.

The applicant represents that he acknowledges, understands, and agrees that the Commission's issuance of the order requested by the application shall not prejudice nor limit the Commission's rights in any manner with respect to any investigation, enforcement action, or proceeding under section 9(b) of the Investment Company Act, based, in whole or in part, upon conduct other than that giving rise to the application.

Notice is further given that any interested person may, not later than March 11, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application, accompanied by a statement as to the nature of his or her interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted. Any such request should be addressed to: Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of such request shall be served personally or by mail upon Adams at the address stated above. Proof of such service (by affidavit or, in the case of an attorney, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88–2908 Filed 2–10–88; 8:45 am]

BILLING CODE 8010–01–M

[2] On April 4, 1975, Adams pled guilty to one count of a three-count indictment. *U.S. v. Adams*, No. S–74–16–Cr. (E.D. Tex. filed Oct. 4, 1974). This case involved the alleged issuance and sale by Adams of unauthorized LSL stock certificates. Because more than ten years have elapsed since the conviction, the prohibitions of section 9(a)(1) of the Act are not applicable to Adams by virtue of that conviction.

[Release No. IC–16255; 811–4835]

Delaware Group of California Tax-Free Fund, Inc.; Application

February 5, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "1940 Act").

Applicant: Delaware Group of California Tax-Free Fund, Inc.

Relevant 1940 Act Section: Section 8(f) and Rule 8f–1 thereunder.

Summary of Application: Applicant seeks an order declaring that it has ceased to be an investment company.

Filing Date: The application on Form N–8F was filed on January 28, 1988.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on March 2, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicant, One Commerce Square, Philadelphia, PA 19103.

FOR FURTHER INFORMATION CONTACT: Paul J. Heaney, Financial Analyst (202) 272–2847 or Brion R. Thompson, Special Counsel (202) 272–3016 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the Application; the complete application on Form N–8F is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who may be contacted at (800) 231–3282) (in Maryland (301) 258–4300).

Applicant's Representations

1. On September 10, 1986, Applicant filed a registration statement under 1940

Act, and a registration statement under the Securities Act of 1933, which registration was never declared effective. Thus, no public offering of Applicant's securities was ever commenced. However, Applicant did make an initial sale of 3,500 shares of its common stock to each of three initial subscribers for $35,000 each. ("Initial Subscribers".) In connection with its liquidation, Applicant intends to distribute the $105,000 of its initial capitalization to its Initial Subscribers.

2. Applicant, a duly organized and existing corporation under the laws of the State of Maryland, intends to file Articles of Dissolution with the Maryland State Department of Assessments of Taxation. Applicant has no debts, is not a party to any litigation or administrative proceeding, and is not now engaged, or proposes to engage, in any business activities other than those necessary for the winding-up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88-2909 Filed 2-10-88; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region V Advisory Council; Public Meeting

The U.S. Small Business Administration, Region V Advisory Council, located in the geographical area of Chicago, will hold a public meeting at 12:30 p.m. on Thursday, March 10, 1988, at the Greater O'Hare Association, 1050 Busse (Rte. 83), Bensenville, Illinois, to discuss such matters as may be presented by members, staff of the Small Business Administration and others present.

For further information, write or call John L. Smith, District Director, U.S. Small Business Administration, 219 South Dearborn Street, Room 437, Chicago, Illinois, (312) 353-4508.

Jean M. Nowak,

Director, Office of Advisory Councils.

February 2, 1988.

[FR Doc. 88-2939 Filed 2-10-88; 8:45 am]

BILLING CODE 8025-01-M

Region VI Advisory Council; Public Meeting

The U.S. Small Business Administration, Region VI Advisory Council, located in the geographical area of New Orleans, will hold a public meeting at 10:00 a.m. Friday, February 26, 1988, at the Small Business Administration office, 1661 Canal Street, Suite 2000, New Orleans, Louisiana 70112-2890, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Robert J. Crochet, District Director, U.S. Small Business Administration, 1661 Canal Street, Suite 2000, New Orleans, Louisiana 70112-2890 or (504) 589-2744.

Jean M. Nowak,

Director, Office of Advisory Councils.

February 1, 1988.

[FR Doc. 88-2940 Filed 2-10-88; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Bureau of Consular Affairs

[Public Notice 1050]

Immigrant Visa Files; Records Disposal Procedures

AGENCY: Bureau of Consular Affairs, Department of State.

ACTION: Systematic disposal of files relating to immigrant visa registrations. Final action.

SUMMARY: On October 13, 1987 (52 FR 38031), the Department published Public Notice 1032 inviting public comment on its proposal to initiate a systematic review and disposal of immigrant visa files which have been inactive for at least three years from the date on which the priority date has been reached. This action will affect those immigrant visa applicants who fail to reaffirm their continuing intent to emigrate within a period of three years.

EFFECTIVE DATE: February 11, 1988.

FOR FURTHER INFORMATION CONTACT: Stephen K. Fischel, Chief, Legislation and Regulations Division, Visa Services, or Guida Evans-Magher, Consular Officer, Department of State, Washington, DC 20520 (202) 663-1204—663-1206.

SUPPLEMENTARY INFORMATION: Public Notice 1032 proposed to purge immigrant visa registrations of certain aliens who fail to apply for an immigrant visa within a defined time frame. The changes to established administrative procedures relative to the provisions of section 203(e) will authorize consular officers to initiate an immigrant visa screening process gradually purging those cases, estimated at over 600,000 which have been inactive for at least three years from the date on which the priority date has been reached and which are presently being stored at posts abroad for an indefinite period of time at a great cost to the United States Government.

Comments Received

Two comments were received. One commenter expressed concern that the proposed procedure would be implemented in all immigrant cases which fall within the three year criteria regardless of unique circumstances. The concern particularly addressed visa applicants, registered under Third Country Processing or Orderly Departure programs, who might be penalized for failing to obtain exit permits from their country of nationality due to delays beyond their control. The other commenter objected to the proposed changes in that they would provide for the transmission of packet 4 letters and subsequent termination of registration in the absence of a response within three years of the mailing of packet 3 letters. The commenter felt that the method to be used by the Department in notifying immigrant visa registrants of its intent to terminate the registrations for failure to apply for a visa within three years from the mailing of packet 3 is not adequate to satisfy the requirements of section 203(e) of the Immigration and Nationality Act. The commenter proposed two alternatives for the Department's consideration which would alleviate the Department's storage problems caused by the large volume of inactive files and at the same time ensure that the absence of response to Packet 3 was not due to the loss or theft of the Packet 3 letter during its transmission to the applicant.

The first alternative suggests that Packet 4 and the notice of termination of registration be transmitted by certified return receipt mail to both the beneficiary and the petitioner. This method conceivably would assure official acknowledgement of the notice of termination of registration by one or both parties.

The other alternative concerns those registrants who might have obtained permanent resident status through adjustment of status. This alternative would require the Immigration and Naturalization Service to notify the Department of such adjustments. Confirmation by INS would allow for immediate destruction of those inactive files.

The Department appreciates the commenters' concerns and suggestions and its response to those comments is provided below.

Response to Comments

In regard to the comment regarding a certain class of immigrant visas registrants who cannot depart their country of residence for reasons beyond their control, this point is well taken. The intent of the Department's procedural change is to cull from the list of registrants only those people who have abandoned their applications. This procedural change is not intended to remove this class of applications from the registration list. Currently, consular posts processing cases in which it is known that a class of aliens cannot complete processing of their immigrant visa applications and depart their country of residence due to reasons beyond their control are granted authorization to delay the mailing of Packet 4 until the alien is ready to depart. Furthermore, an additional protection lies in the Department's regulations, 22 CFR 42.83, where the failure to apply for an immigrant visa for reasons beyond the aliens' control constitutes basis for retaining one's immigrant visa registrations. Certainly, the class of immigrant visa registrants contemplated by the commenter appear to be unable to process their visas for circumstances beyond their control.

In regard to the comments submitted by the other commenter, the following explanation is offered:

The Department uses the most reasonable means available, usually the local public mail service, to transmit the various packets and other immigrant visa related information to the applicant. Although the use of certified return receipt letters has been considered, it should be noted that such postal service is not universally available. In this context the primary problem that arises is not the use of the local mail system but the fact that the U.S. consular officer is not in possession of the current address of the visa applicant. It is the responsibility of the alien to keep consular officials informed of his/her current address. By the use of reasonable mailing systems in transmitting the Packet 4 and subsequent notice letters to the current address provided by the registrant the Department is making every reasonable effort to notify the immigrant visa registrant of the status of the alien's case. The Department is exploring the possibility of working with the Immigration and Naturalization Service to establish procedures for the reporting of aliens who have adjusted status and whose visa registration files are pending at immigrant visa issuing posts abroad.

In view of the foregoing, the changes proposed in Public Notice 1032, October 13, 1987 (52 FR 38030) relating to the systematic disposal of immigrant visa registrations of certain aliens will become effective upon publication of this notice in the Federal Register.

Dated: February 3, 1988.

Joan M. Clark,

Assistant Secretary for Consular Affairs.

[FR Doc. 88-2975 Filed 2-10-88; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Counties of Los Angeles and San Bernardino, 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 the Counties of Los Angeles and San Bernardino, CA.

FOR FURTHER INFORMATION CONTACT: Michael Cook, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95809, Telephone (916) 551-1307.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation (Caltrans), will prepare an environmental impact statement (EIS) on an alternative analysis for improving State Route 30 between Damien Avenue, near Interstate Route 210 in LaVerne, County of Los Angeles, and State Route 215 in San Bernardino, County of San Bernardino, a distance of 28.2 miles. The route also passes through the City of Claremont in Los Angeles County and the Cities of Upland, Rancho Cucamonga, Fontana and Rialto in San Bernardino County. The study is to determine the type of facility required to meet the transportation needs of this traffic corridor. Extensive industrial, commercial and residential development along the State Route 30 corridor, both existing and proposed, will induce a traffic demand in excess of the capacity of the existing east-west transportation facilities (Interstate Route 10 and State Route 60).

The proposed EIS will discuss full freeway, freeway/expressway combination and no-project alternatives.

The proposed project has been the subject of considerable planning effort in recent years. There have been public meetings to solicit input into the study process. There are ongoing Project Development Team meetings that involve concerned parties such as members of the Cities of LaVerne, Claremont, Upland, Rancho Cucamonga, Fontana, Rialto, San Bernardino and the Counties of San Bernardino and Los Angeles, San Bernardino Associated Governments, California Highway Patrol, and Caltrans.

The public information program and Project Development Team meetings will continue throughout the design and environmental process. The Draft EIS will be available for public and agency review and comment. A public hearing will be held to discuss alternatives and impacts of the proposed action. Public notice will be given for the time and place of the public hearing.

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: January 29, 1988.

Michael A. Cook,

District Engineer, Sacramento, California.

[FR Doc. 88-2976 Filed 2-10-88; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

Petitions for Exemptions From the Vehicle Theft Prevention Standard

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

ACTION: Grant of petition for exemption.

SUMMARY: This notice grants the petition by Volkswagen of America Corporation (VWoA) for an exemption from the marking requirements of the vehicle theft prevention standard for two 1989 passenger car lines VWoA intends to introduce. The agency grants this exemption under § 605 of the Motor Vehicle Information and Cost Savings Act. The agency has determined that the antitheft device which the petitioner intends to install on these lines as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as would compliance

with the parts marking requirements of the Standard 541. NHTSA has decided to grant VWoA's request that we treat the name plate of these new car lines as confidential information until the manufacturer introduces the product line.

DATE: The exemption granted by this notice will become effective beginning with the 1989 model year.

SUPPLEMENTARY INFORMATION: By letter dated October 9, 1987, VWoA transmitted to this agency a petition for an exemption from the parts marking requirements of the vehicle theft prevention standard (49 CFR Part 541), pursuant to the requirements of 49 CFR Part 543, *Petitions for Exemption from the Vehicle Theft Prevention Standard.* On September 8, 1987, NHTSA published a final rule setting out procedures for manufacturers to follow in preparing and submitting petitions for model year 1988 and thereafter. These procedures essentially are identical to procedures adopted in an interim final rule (January 7, 1986, 51 FR 706) establishing the Part 543 requirements to be followed by manufacturers in preparing and submitting petitions for exemption during model year 1987.

The agency reviewed the material VWoA submitted and concluded that the company met the requirements for petitions in §§ 543.5, 543.6, and 543.7 as of October 15, the date on which NHTSA received VWoA's completed petition. The 120-day period for processing VWoA's petition began on October 16, 1987. The agency further decided to grant the company's request under 49 CFR Part 512 to treat the name plate of the product line and detailed design specifications as confidential business information.

In its petition, VWoA described an antitheft system that is activated by removing the ignition key and locking the driver's door with the ignition key. (This action also locks the passenger doors.) These steps activate the starter interrupt function and also arm an audible alarm. Sensors in the doors, trunk, engine hood, and radio trigger the alarm.

Based on substantial evidence, the agency has determined that installing VWoA's device in this new car line is likely to be as effective in reducing and deterring vehicle theft as are the Part 541 marking requirements. This determination is based on the information VWoA submitted with its petition and on other available information. The agency believes that the device will provide the types of performance listed in § 543.6(a)(3): Promoting activation; attracting attention to unauthorized entries; preventing defeat or circumventing of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

As required by section 605(b) of the statute and 49 CFR 543.6(a)(4), the agency also finds that VWoA has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information VWoA provided on its device. The agency notes also that the methods of encouraging use and preventing defeat of the VWoA antitheft device are similar to the methods of other devices that the agency has considered effective, and identical to one other system that is the subject of an exemption grant. VWoA stated in its petition that it believes its antitheft device will reduce and deter theft at least to the same extent as complying with Part 541 would.

The agency notes that the limited and apparently conflicting data on the effectiveness of the pre-standard parts marking programs make it difficult at this early stage of the theft standard's implementation to compare the effectiveness of an antitheft device with the effectiveness of compliance with the theft prevention standard. The statute clearly requires such a comparison, which the agency has made on the basis of the limited data available.

NHTSA notes that if VWoA wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Section 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption was based. Further, § 543.9(c)(2) provides for the submission of petitions "(t)o modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption."

The agency wishes to minimize the administrative burden which § 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change in the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if VWoA contemplates making any changes the effects of which might be characterized as *de minimis*, then the company should consult the agency before preparing and submitting a petition to modify.

(15 U.S.C. 2025, delegation of authority at 49 CFR 1.50)

Issued on: February 5, 1988.

Diane K. Steed,

Administrator.

[FR Doc. 88-2855 Filed 2-10-88; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 654]

Dollar Limitation for Display and Retail Advertising Specialists

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: General notice.

SUMMARY: This notice sets forth the annually updated dollar limitations prescribed for alcohol beverage industry members under the "Tied House" provisions of the Federal Alcohol Administration Act.

DATES: This notice shall be effective as of January 1, 1988.

ADDRESSES: Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Ave. NW., Washington, DC 20226.

FOR FURTHER INFORMATION CONTACT: Norbert Hymel, Trade Affairs Branch, (202) 566-7715.

SUPPLEMENTARY INFORMATION: Based on data of the Bureau of Labor Statistics, the consumer price index was 4.4 percent higher in December 1987 than in December 1986. Therefore, effective January 1, 1988, the dollar limitation for "Product Displays" (27 CFR 6.83(c)) is increased from $128.00 to $134.00 per brand. Similarly, the "Retailer Advertising Specialists" (27 CFR 6.85(b)) is increased from $63.00 to $66.00 per brand. Also, the "Participation in Retailer Association Activities" (27 CFR 6.100(e)) is increased from $128.00 to $134.00 per year.

Industry members who wish to furnish, give, rent, loan or sell product displays or retailer advertising specialists to retailers are subject to dollar limitations (27 CFR 6.83 and 6.85). Industry members making payments for advertisements in programs or brochures issued by retailer associations at a convention or trade show are also subject to dollar limitations (27 CFR 6.100). The dollar limitations are updated annually by use of a "cost adjustment factor" in accordance with 27 CFR 6.82. The cost adjustment factor is defined as a percentage equal to the change in the Bureau of Labor Statistics' consumer price index. Adjusted dollar limitations are established each January using the consumer price index for the preceding December.

Signed: February 5, 1988.

Stephen E. Higgins,

Director.

[FR Doc. 88-2943 Filed 2-10-88; 8:45 am]

BILLING CODE 4810-31-M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 28
Thursday, February 11, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, February 17, 1988.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. you may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: February 9, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-3038 Filed 2-9-88; 2:26 pm]

BILLING CODE 6210-01-M

STATE JUSTICE INSTITUTE

TIME AND DATE:

8:30 a.m. to 5:00 p.m., February 20, 1988
8:30 a.m. to 5:00 p.m., February 21, 1988

PLACE: The Boar's Head Inn, Route 250 West, Charlottesville, Virginia.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED: Planning session to determine Institute's goals and objectives for the future.

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. 88-3037 Filed 2-9-88; 1:45 pm]

BILLING CODE 6820-SC-M

Corrections

Federal Register
Vol. 53, No. 28
Thursday, February 11, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-940-08-4212-12; A-20347(B)]

Reconveyed Land Opened to Entry; Cochise, Graham and Pinal Counties, AZ

Correction

In notice document 88-195 beginning on page 451 in the issue of Thursday, January 7, 1988, make the following correction:

On page 451, in the third column, in the land description under T. 12 S., R. 21 E., in Sec. 8, "SW½NW¼" should read "SW¼NW¼".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-930-08-4220-10; W-96702]

Termination of Proposed Withdrawal and Opening of Land; Wyoming

Correction

In notice document 88-2027 appearing on page 2793 in the issue of Monday, February 1, 1988, make the following corrections:

1. In the second column, the **EFFECTIVE DATE** should read "March 2, 1988".

2. In the same column, under T. 35 N., R. 94 W., under Sec. 31, in the first line, "S½N¼" should read "S½NE¼".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. 24929; Amdt. Nos. 21-61 and 36-14]

Final Rule for Noise Standards for Helicopters in the Normal, Transport and Restricted Categories

Correction

In rule document 88-2118 beginning on page 3534 in the issue of Friday, February 5, 1988, make the following correction:

Figures H1 and H2 appearing on page 3548 and figure H3 appearing on page 3550 were not legible and are republished below.

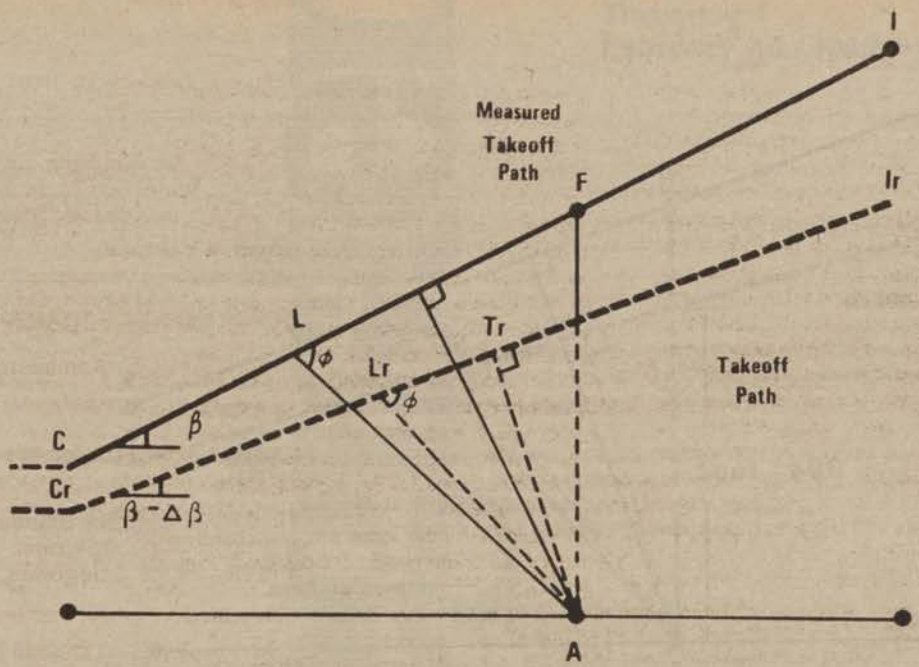

Figure H1. COMPARISON OF MEASURED AND CORRECTED TAKEOFF PROFILES

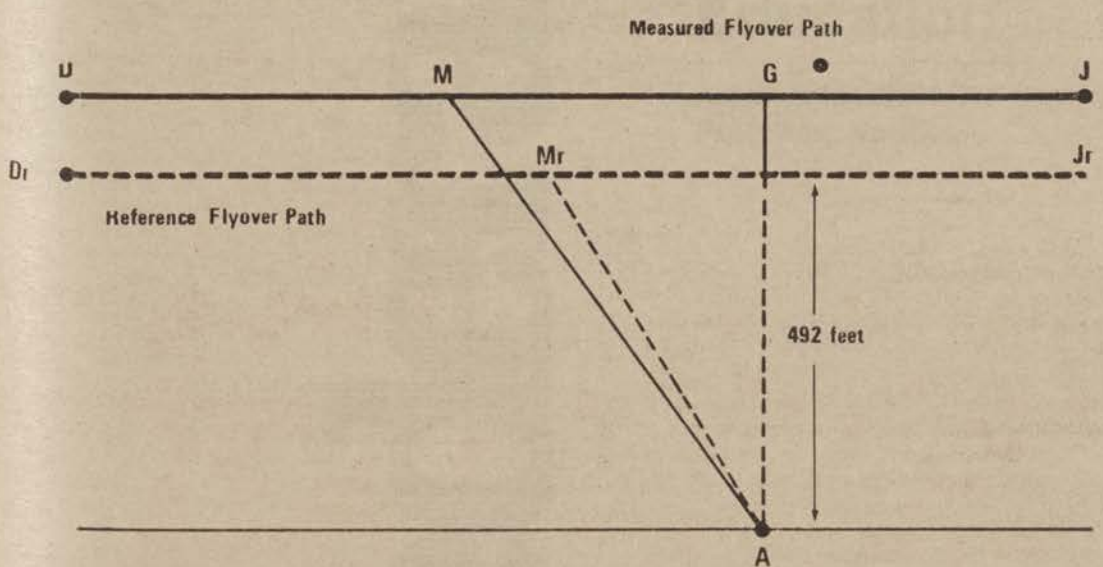

Figure H2. COMPARISON OF MEASURED AND CORRECTED FLYOVER PROFILES

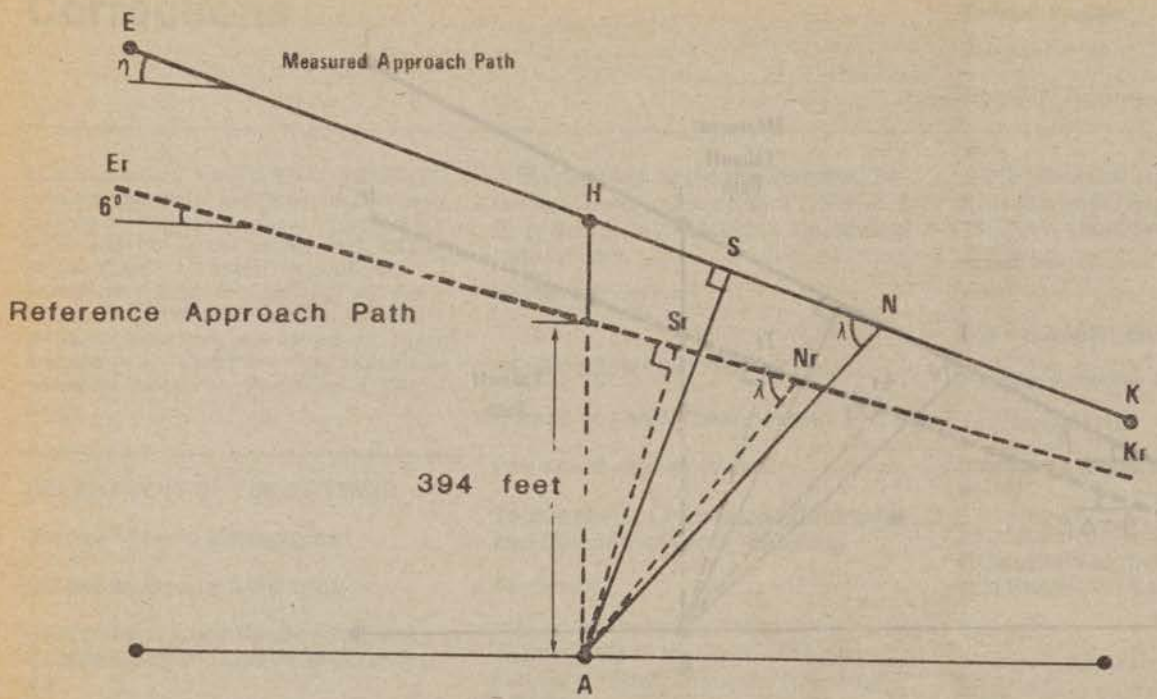

Figure H3. COMPARISON OF MEASURED AND CORRECTED APPROACH PROFILES

BILLING CODE 1505-01-D

Federal Register

Thursday
February 11, 1988

Part II

Department of Education

Adult Education for the Homeless Program; Notices

DEPARTMENT OF EDUCATION

Adult Education for the Homeless Program

AGENCY: Department of Education.

ACTION: Notice of proposed funding procedure under the Adult Education for the Homeless Program for funds made available by the fiscal year 1987 supplemental appropriation and the fiscal year 1988 appropriation.

SUMMARY: The Secretary proposes to establish a distribution formula for alloting funds to States under the Adult Education for the Homeless Program.

DATES: Comments must be received on or before March 14, 1988.

ADDRESSES: All comments concerning the proposed funding procedure should be addressed to Dr. Thomas L. Johns, Acting Director, Policy Analysis Staff, Office of Vocational and Adult Education, U.S. Department of Education, (Room 620, Reporters Building), 400 Maryland Avenue, SW., Washington, DC 20202–5609.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas L. Johns, (202) 732–2241.

SUPPLEMENTARY INFORMATION: Under section 702 of the Stewart B. McKinney Homeless Assistance Act (Act), (Pub. L. 100–77, 42 U.S.C. 11301 *et seq.*), the Secretary of Education (Secretary) makes grants to State educational agencies to assist them in developing and implementing a program of literacy training and basic skills remediation for adult homeless individuals. Under section 702(c)(2) of the Act, Federal funds are to be distributed, in part, "on the basis of the assessments of the homeless population in the States" provided in each State's Comprehensive Homeless Assistance Plan (CHAP) submitted to the Secretary of the Department of Housing and Urban Development under section 401 of the Act in order to receive a grant under the Emergency Shelter Grant Program. However, while the Act requires the States to include in their CHAPs an assessment of the need for literacy training the basic skills remediation for homeless individuals, it does not require them to provide an assessment or count of the homeless population for the purpose of distributing funds under the Adult Education for the Homeless Program. Nonetheless, the Secretary has reviewed the CHAPs to determine the feasibility of allocating funds to States on the basis of information they contain.

The Secretary's review revealed that States are experiencing considerable difficulty in obtaining accurate counts of homeless individuals. Many CHAPs contained estimates of homeless populations in the form of a range with numbers at both the upper and lower extremes; others reflect diverse methodologies used to derive estimates; and still others provided no estimates at all. Few States provided estimates for comparable time periods.

The Secretary believes that it is not possible to allocate funds to the States on a consistent, principled, and defensible basis based upon the assessments contained in the CHAPs. Moreover, it appears that congressional action to establish a more appropriate means of allocating funds may not occur for several more months.

Rather than delay implementation of the Adult Education for the Homeless Program, the Secretary proposes to establish a special funding procedure. The Secretary would allot the funds from the fiscal year 1987 supplemental appropriation and the fiscal year 1988 appropriation to State educational agencies on the following basis:

From the sums available under section 702(c) of the Act, each State would be allotted an amount that bears the same ratio as the number of individuals in each State who have attained 16 years of age, do not have a certificate of graduation from a school providing secondary education (or its equivalent), and are not enrolled in such a school bears to the number of those individuals in all States, except that no State would receive an allotment of less than $75,000.

Any funds from the fiscal year 1987 supplemental appropriation and the fiscal year 1988 appropriation that are not applied for by States by July 1, 1988 would become available for reallotment to participating States according to the formula used in making the original allotment. However, States that received a minimum allocation in the original allotment would not receive additional funds unless the initial formula distribution, plus the reallocated amount, exceeds $75,000.

While the proposed funding procedure does not incorporate a direct count of the homeless population in each State, a count that would be very difficult to achieve, it does provide a reasonable proxy for the potential population of homeless persons with no or minimal literacy/educational skills. The funding procedure uses as its basis reliable data that are derived from the 1980 census, and are used, in part, to compute allocations under the Adult Education Act. Additionally, the proposed precedure uses the $75,000 minimum allotment required by section 702(c)(2) of the Act. The proposed funding procedure would be used to distribute the funds from both the fiscal year 1987 supplemental appropriation and the fiscal year 1988 appropriation. If Congress enacts changes to the Act requiring a different procedure for the fiscal year 1988 appropriation, only the fiscal year 1987 appropriation will be distributed according to the funding procedure.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding the proposed special funding procedure. Commenters interested in seeing how proposed formula will affect each State may obtain a copy of the proposed allocation table from the contact person identified at the beginning of this notice.

All comments submitted in response to the proposed special funding procedure will be available for public inspection, during and after the comment period in Room 620, Reporters Building, 300 7th Street, SW., Washington DC between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(42 U.S.C. 11421)

Dated: February 4, 1988.

William J. Bennett,

Secretary of Education.

[FR Doc. 88–2935 Filed 2–10–88; 8:45 am]

BILLING CODE 4000–01–M

[CFDA No. 84.192]

Invitation for Applications for New Awards Under the Adult Education for the Homeless Program From Funds Made Available by the Fiscal Year 1987 Supplemental Appropriation and the Fiscal Year 1988 Appropriation

Purpose: To provide assistance to enable State educational agencies to plan and implement a program of literacy training and basic skills remediation for adult homeless individuals within their State.

Deadline for Transmittal of Applications: July 1, 1988. Funds from the fiscal year 1987 supplemental appropriation and the fiscal year 1988 appropriation that are not applied for by July 1, 1988 will be reallotted to participating SEAs after that date.

Applications Available: February 12, 1988.

Available Funds Anticipated: $6,900,000 from the fiscal year 1987 supplemental appropriation and $7,180,000 from the fiscal year 1988 appropriation. If Congress enacts changes requiring a different funding procedure for the fiscal year 1988

appropriation, only the funds available from the fiscal year 1987 supplemental appropriation will be awarded under this notice.

Estimated Range of Awards: $75,000–$499,000 for awards made from the fiscal year 1987 supplemental appropriation and $75,000–$526,000 for awards made from the fiscal year 1988 appropriation.

Estimated Number of Awards: 52.

Project Period: Up to 29 months; however, funds made available by the fiscal year 1987 supplemental appropriation must be expended by September 30, 1989.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 76, 77, 78, and 79; and (b) when adopted in final form, the proposed funding procedure under the Adult Education for the Homeless Program published in this issue of the **Federal Register**. The Secretary is providing in the application package the Nonregulatory Guidance for Implementing Title VII, Subtitle A, Section 702 of the Stewart B. McKinney Homeless Assistance Act: Adult Education for the Homeless.

For Applications or Information Contact: Mr. Ronald Pugsley, Chief, Program Services Branch, Division of Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 522, Reporters Building), Washington, DC 20202–5515. Telephone (202) 732–2272.

Program Authority: 42 U.S.C. 11421.

Dated: January 14, 1988.

Bonnie Guiton,

Assistant Secretary for Vocational and Adult Education.

[FR Doc. 88–2936 Filed 2–10–88; 8:45 am]

BILLING CODE 4000–01–M

Reader Aids

Federal Register

Vol. 53, No. 28

Thursday, February 11, 1988

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-5237

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data Base Services	523-3408
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Library	523-5240
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, FEBRUARY

2719-2816	1
2817-2994	2
2995-3182	3
3183-3324	4
3325-3570	5
3571-3720	8
3721-3844	9
3845-3996	10
3997-4104	11

CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

5763	2719
5764	2814
5765	3183
5766	3185
5767	3327
5768	3573
5769	3575

Executive Orders:

12301 (Revoked by EO 12625)	2812
12625	2812

Administrative Orders:

Memorandums:

Jan. 27, 1988	3571
Jan. 28, 1988	2816

Presidential Determinations:

No. 88-5 of Jan. 15, 1988	3325
No. 88-7 of Jan.19, 1988	3845
No. 88-8 of Jan. 29, 1988	3847

7 CFR

12	3997
68	3721
272	2817
301	3849, 3850, 3999
401	4006
656	4006
713	3856
907	3329
910	3330
932	2823
945	3187
947	2995
966	3189
1097	3734
1403	3330
1901	3860
1942	3861
1951	3860
2902	4007
2903	4007

Proposed Rules:

52	3403, 3490
53	3025
54	3025
250	2846
300	3896
318	3028
456	4030
907	2849, 3599
908	2849, 3599
917	2851
925	2851
929	3036
948	3037
1421	2759
1823	2852
1930	2852
1933	2852
1942	2852
1944	2852
1948	2852
1980	2852
2054	3176

8 CFR

204	2824
214	3331

Proposed Rules:

212	3403

9 CFR

92	2853
362	3735

Proposed Rules:

51	2759
71	3146
78	3146
85	3146
309	3146
310	3146
320	3146

10 CFR

1	3861
20	3861
30	3861
40	3861
55	3861
70	3861
73	3861

Proposed Rules:

2	3404
31	2853

12 CFR

18	3863
32	2997
207	2998
220	2998
221	2998
224	2998
226	3332
614	2825, 3191
620	3334, 3335
621	3335
795	3000

13 CFR

125	4008

14 CFR

21	2721-2733, 3534, 4098
23	2721-2733
36	3534
39	2735-2737, 3001, 3002, 3577-3581, 3736-3738, 3807
47	3808

49 CFR

1011.....3400
1152.....3400
1206.....4028
1249.....4028

Proposed Rules:

1039.....3900
1041.....3058
1048.....3058
1049.....3058

50 CFR

14.....3894
17.....3560–3567
301.....3213
611.....3401
642.....3401

Proposed Rules:

17.....3901
661.....3225
663.....3225

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List February 9, 1988