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Thursday
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WASHINGTON, DC

WHEN: April 15; at 9:00 a.m.
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BOSTON, MA

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Boston, MA.
RESERVATIONS: Call the Boston Federal Information Center, 617–565–8123

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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.

Rules and Regulations

Federal Register
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1064

Milk in the Greater Kansas City Marketing Area; Order Terminating Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination order.

SUMMARY: This is an action concerning the termination of the advertising and promotion program of the Greater Kansas City Federal milk marketing order. Termination of the program was requested by Mid-America Dairymen, Inc., a cooperative association representing more than 95 percent of the dairy farmers who are producers under the order. Since a majority of the producers on the market no longer support the program to fund milk advertising and promotion activities, the program should be terminated.

EFFECTIVE DATES: Effective April 1, 1988—Amendments to §§ 1064.73 and 1064.107, with respect to marketings on and after March 1, 1988. Effective June 30, 1988—Removal of §§ 1064.105, 1064.106 and 1064.110 through 1064.122.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 447–7183.

SUPPLEMENTARY INFORMATION: On March 16, 1988, Assistant Secretary Kenneth A. Gilles issued the following determinations and order:

Determinations. It is hereby determined that termination of the advertising and promotion program of the Greater Kansas City order is favored by a majority of the producers engaged in the production of milk for sale in the marketing area in the representative period, determined to be December 1987, and that such producers produced more than 50 percent of the milk produced for sale in the Greater Kansas City marketing area during such representative period.

Section 608c(16)(B) of the Agricultural Marketing Agreement Act of 1937, as amended, requires that if a majority of the producers engaged in the production of a commodity for sale in the marketing area during a representative period determined by the Secretary favor termination of an order, and such producers produced more than 50 percent of the commodity produced for sale in the marketing area during the representative period, such order shall be terminated. Section 608c(5)(I) of the Act provides that milk marketing order provisions authorizing advertising and promotion may be terminated separately as provided in section 608c(16)(B).

The termination of the advertising and promotion provisions of the Greater Kansas City marketing area was requested by Mid-America Dairymen, Inc., a cooperative association which represents over 95 percent of the producers whose milk was pooled under the order during the representative period. Such producers produced more than 50 percent of the milk for sale in the market during such period. Therefore, the advertising and promotion provisions of the order should be terminated.

Order. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) it is hereby ordered that the funding provisions of the advertising and promotion program of the order (in § 1064.73 (a)(3) and (a)(4), the words ", and (4) deductions for advertising and promotion made pursuant to § 1064.107"; and § 1064.107) be terminated April 1, 1988, with respect to milk marketings on and after March 1, 1988. The remaining provisions of the advertising and promotion program (§§ 1064.105, 1064.106, and 1064.110 through 1064.122) are hereby terminated effective June 30, 1988.

List of Subjects in 7 CFR Part 1064

Milk marketing orders, Milk, Dairy products.

Therefore, 7 CFR Part 1064 is amended as follows:

PART 1064—MILK IN THE GREATER KANSAS CITY MARKETING AREA

1. The authority citation for 7 CFR Part 1064 continues to read as follows:

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

2. In § 1064.73, paragraph (a) is amended by removing ", and" at the end of paragraph (3), and removing paragraph (4).

§ 1064.107 [Removed]

3. Section 1064.107 is removed.

§§ 1064.105, 1064.106, 1064.110 through 1064.122 [Removed]

4. Sections 1064.105, 1064.106, and 1064.110 through 1064.122 are removed.

Signed at Washington, DC, on March 28, 1988.

Edward T. Coughlin,
Director, Dairy Division.

[FR Doc. 88–7110 Filed 3–30–88; 8:45 am]
BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Parts 1962 and 1965

Processing of Loan Assumptions

AGENCY: Farmers Home Administration, USDA

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding the internal processing of loan assumptions. This action is being taken due to the automation of FmHA field offices and their ability to process these transactions. The intended effect is to provide field offices with guidance on how to process these transactions.

EFFECTIVE DATE: March 31, 1988.

FOR FURTHER INFORMATION CONTACT: David J. Villano, Senior Realty Specialist, Property Management Branch, Single Family Housing Servicing and Property Management Division, Farmers Home Administration, USDA, Room 5309 South Agriculture Building, Washington, DC 20250, telephone (202) 382–1452.

SUPPLEMENTARY INFORMATION:

Classification

This final action has been reviewed under USDA procedures established in

Departmental Regulation 1512–1, which implements Executive Order 12291 and has been determined to be exempt from those requirements because it involves only internal agency management. It is the policy of this Department to publish for comment rules relating to public property, loans, grants, benefits, or contracts, notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since it involves matters relating to agency management making publication for comment unnecessary and impractical.

Programs Affected

These programs/activities are listed in the Catalog of Federal Domestic Assistance under Nos.:

10.404 Emergency Loans
10.406 Farm Operating Loans
10.407 Farm Ownership Loans
10.410 Low Income Housing Loans
10.416 Soil and Water Loans
10.421 Indian Tribes and Tribal Corporation Loans

Intergovernmental Consultation

Catalog Number 10.416 is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. The remaining programs are excluded from Executive Order 12372.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Policy Act of 1949, Pub. L. 91–90, an Environmental Impact Statement is not required.

Current FmHA regulations provide guidance on how to process loan assumptions by completing various forms and remitting same to our Finance Office. With automation, these regulations are outdated and require revision. The purpose of these revisions is to update existing regulations consistent with automation efforts of the Agency.

List of Subjects

7 CFR Part 1962

Crops, Government property, livestock, Loan programs—Agriculture, Rural areas.

7 CFR Part 1965

Administrative practice and procedure, Foreclosure, Loan programs—Agriculture, Loan programs—Housing and Community development, Low and moderate income housing—Rental, Mortgages, Rural areas.

Therefore, Chapter XVIII, Title 7, Code of Federal Regulations, is amended as follows:

PART 1962—PERSONAL PROPERTY

1. The authority citation for Part 1962 continues to read as follows:

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

Subpart A—Servicing and Liquidation of Chattel Security

2. In § 1962.34, paragraphs (f)(9), (f)(13) and (g)(1) are revised to read as follows:

§ 1962.34 Transfer of chattel security and EO property and assumption of debts.

* * * * *

(f) *Transfer and assumption docket.*

* * * * *

(9) Form FmHA 1965–8, "Release from Personal Liability," when appropriate.

* * * * *

(13) Form FmHA 1924–14, "Farmer Program Borrower Servicing Options Including Deferrals and Borrower Responsibilities."

(g) *Processing assumption agreements.* * * *

(1) Upon processing the assumption, the Finance Office will establish an account in the name of the assuming transferee and the County Supervisor will be notified.

* * * * *

PART 1965—REAL PROPERTY

3. The authority citation for Part 1965 is revised to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Servicing of Real Estate Security For Farmer Program Loans and Certain Note-Only Cases

4. In § 1965.27, the introductory text of paragraph (b)(5) is amended by removing the last sentence and adding in its place the following three sentences which read as follows:

§ 1965.27 Transfer of real estate security.

* * * * *

(b) * * *

(5) * * * Except as noted below, Form FmHA 1965–13, will be executed by the assuming parties. The name, case number, and address, as applicable, will be changed to that of the transferee's on the Finance Office records. In each of the following situations, Forms FmHA 465–5 and FmHA 1965–13 must be prepared and distributed in accordance with the applicable FMI.

* * * * *

Subpart C—Security Servicing for Single Family Rural Housing Loans

5. In § 1965.126, the introductory text of paragraph (c)(2) is revised to read as follows:

§ 1965.126 Transfer of property with assumption of indebtedness.

* * * * *

(c) * * *

(2) In the situations outlined in paragraphs (b)(12) and (c)(2)(i), (c)(2)(ii) and (c)(2)(iii) of this section *only*, the assuming party will execute Form FmHA 460–9, "Assumption Agreement (Same Terms)." Upon processing the assumption, the name, case number, and address, as applicable, will be changed to that of the transferee's on Finance Office records. Assumptions under this paragraph are authorized without considering the assuming party's eligibility for program assistance. The interest rate, final due date, payment date, account status (current, delinquent, ahead of schedule), and whether or not the loan is subject to recapture will not be changed by virtue of the assumption. After assumption, compliance with the loan conditions is required. Eligibility for interest credit will be considered or reevaluated at the time of assumption. Situations where these terms are authorized are:

* * * * *

Dated: March 2, 1988.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 88–6959 Filed 3–30–88; 8:45 a.m.]

BILLING CODE 3410–07–M

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 88–035]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Washington from Class A to Class Free. We have determined that Washington now meets the standards for Class Free status. This action relieves certain

restrictions on the interstate movement of cattle from Washington.

DATES: Interim rule effective March 25, 1988. Consideration will be given only to comments postmarked or received on or before May 31, 1988.

ADDRESSES: Send an original and three copies of written comments to APHIS, USDA, Room 1143, South Building, P.O. Box 96464, Washington, DC 20090–6464. Please state that your comments refer to Docket Number 88–035. Comments received may be inspected at Room 1141 of the South Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Jan Huber, Senior Staff Veterinarian, Domestic Programs Support Staff, VS, APHIS, USDA, Room 812, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–5965.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and man, caused by bacteria of the genus *Brucella*.

The brucellosis regulations contained in 9 CFR Part 78 (referred to below as the regulations) provide a system for classifying states or portions of states according to the rate of brucella infection present, and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or areas that do not meet the minimum standards for Class C are required to be placed under federal quarantine.

The brucellosis Class Free classification is based on a finding of no known brucellosis in cattle for the 12 months preceding classification as Class Free. The Class C classification is for states or areas with the highest rate of brucellosis. Class B and Class A fall between these two extremes. Restrictions on moving cattle interstate become increasingly less stringent as a state approaches or achieves Class Free status.

The standards for the different classifications of states or areas entail maintaining (1) A cattle herd infection rate not to exceed a stated level during 12 consecutive months; (2) a rate of infection in the cattle population (based on the percentage of brucellosis reactors found in the Market Cattle Identification (MCI) program—a program of testing at stockyards, farms, ranches, and slaughtering establishments) not to exceed a stated level; (3) a surveillance system that includes testing of dairy herds, participation of all slaughtering establishments in the MCI program, identification and monitoring of herds at high risk of infection—including herds adjacent to infected herds and herds from which infected animals have been sold or received, and having an individual herd plan in effect within a stated number of days after the herd owner is notified of the finding of brucellosis in a herd he or she owns; and (4) minimum procedural standards for administering the program.

Before the publication of this interim rule, Washington was classified as a Class A state because of its herd infection rate and its MCI reactor prevalence rate. However, after reviewing its brucellosis program records, we have concluded that Washington meets the standards for Class Free status.

To attain and maintain Class Free status, a state or area must (1) remain free from field strain Brucella abortus infection for 12 consecutive months or longer, (2) maintain a 12-consecutive-month MCI reactor prevalence rate not to exceed one reactor per 2,000 cattle tested (0.050 percent), and (3) have an approved individual herd plan in effect within 15 days of locating the source herd or recipient herd. Washington now meets the standards for classification as Class Free.

Therefore, we are adding Washington to the list of Class Free states in § 78.41(a) and removing Washington from the list of Class A states in § 78.41(b). This action relieves certain restrictions on moving cattle interstate from Washington.

Emergency Action

James W. Glosser, Acting Administrator of the Animal and Plant Health Inspection Service, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. Immediate action is warranted to remove unnecessary restrictions on the interstate movement of cattle from Washington.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these emergency conditions, there is good cause under 5 U.S.C. 553 for making this interim rule effective upon signature. We will consider comments postmarked or received within 60 days of publication of this interim rule in the **Federal Register**. Any amendments we make to this interim rule as a result of these comments will be published in the **Federal Register** as soon as possible following the close of the comment period.

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 on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the status of Washington from Class A to Class Free reduces certain testing and other requirements governing the interstate movement of cattle from Washington. Testing requirements for cattle moved interstate for immediate slaughter or to quarantined feedlots are not affected by this change. Cattle from certified brucellosis free herds moving interstate are not affected by this change.

The groups affected by this action will be herd owners in Washington, as well as buyers and importers of Washington cattle. Approximately 66,500 cattle are tested for brucellosis in Washington each year, at an average cost to the seller of $7 per test. Therefore, Class Free status could result in a potential savings of $465,500 for Washington's livestock industry. Since Washington has 23,000 herds, the annual savings to each herd owner will be approximately $20 per herd. We have therefore determined that changing Washington's brucellosis status will not significantly affect market patterns, and will not have a significant economic impact on the small cattle operations affected by this interim rule.

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

Paperwork Reduction Act

This rule contains no information collection or recordkeeping

requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

Accordingly, we are amending 9 CFR Part 78 as follows:

PART 78—BRUCELLOSIS

1. The authority citation for Part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 78.41 [Amended]

2. Section 78.41, paragraph (a) is amended by adding "Washington" immediately before "West Virginia".

3. Section 78.41, paragraph (b) is amended by removing "Washington".

Done in Washington, DC, this 25th day of March, 1988.

Larry B. Slagle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88–7042 Filed 3–30–88; 8:45 am]

BILLING CODE 3410–34–M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 0 and 2

Revision to Ex Parte and Separation of Functions Rules Applicable to Formal Adjudicatory Proceedings

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: This final rule amends the Commission's rules of practice by revising those regulations dealing with ex parte communications and separation of functions in formal adjudicatory proceedings. This amendment updates the existing rules by incorporating requirements imposed by the Government in the Sunshine Act as it relates to ex parte communications. The final rule also allows members of the NRC staff to serve as confidential advisors to the Commission with respect to a contested proceeding so long as those staff members do not act as investigators or litigators in the proceeding. This rule is intended to aid in maintaining effective communication between decisionmaking officials and NRC staff personnel and individuals outside the NRC while ensuring that proceedings are conducted in an impartial manner.

EFFECTIVE DATE: April 29, 1988.

FOR FURTHER INFORMATION CONTACT: Paul Bollwerk, Senior Attorney, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (202) 634–3224.

SUPPLEMENTARY INFORMATION:

I. Background

On March 26, 1986, the Nuclear Regulatory Commission published in the **Federal Register** (51 FR 10393–10402) proposed amendments to its Rules of Practice (10 CFR Part 2) that would revise substantially its regulatory restrictions on private communications between agency adjudicatory decisionmakers and members of the NRC staff or persons outside the agency with regard to matters that are the subject of a formal adjudicatory hearing. By notice published in the **Federal Register** on May 27, 1986 (51 FR 19067), the date for submitting comments on the proposed revisions was extended to June 26, 1986.

The Commission's March 1986 rulemaking proposal was the culmination of an extended agency effort to address concerns about its existing rules governing private communications with agency adjudicatory decisionmakers.

On March 7, 1979 (44 FR 12428), in response to the adoption of the Government in the Sunshine Act with its provisions placing specific restrictions on ex parte communications between adjudicatory decisionmakers and persons outside the agency (5 U.S.C. 551(14), 556(d), 557(d)), the Commission published a proposed rule to revise its existing regulations to incorporate the new statutory provisions. Thereafter, as a result of the accident in March 1979 at Three Mile Island, Unit 2, the Commission's operating procedures came under intense scrutiny. Recommendations were received from several quarters, including Three Mile Island inquiry groups, the American Bar Association, and the Commission's Office of the General Counsel and its Regulatory Reform Task Force, that suggested the Commission's existing rules on separation of adjudicatory and nonadjudicatory functions, which barred private contacts between any member of the NRC staff and the Commission regarding contested issues in an adjudicatory proceeding, were overly stringent as compared to the specific requirements of the Administrative Procedure Act (APA) (5 U.S.C. 554(d)). According to several of these reports, this too strict interpretation was impeding the agency's ability to protect the public health and safety by isolating the Commission unnecessarily from NRC staff knowledge and expertise.

Recognizing these concerns, a proposed rule was published in March 1986 that superseded and withdrew the 1979 proposed rule. This new proposal contained a number of suggested organizational and substantive changes in the existing regulations, 10 CFR 2.719 and 2.780, regarding communications precluded by ex parte and separation of functions considerations. In addition to consolidating these provisions into consecutive sections, §§ 2.780 and 2.781, common definitions were proposed for inclusion in § 2.4 in an effort to make both the ex parte and separation of functions strictures more understandable. Section 2.780 was to become the vehicle for implementation of the Sunshine Act's restrictions on ex parte communications, while private contacts between the NRC staff and Commission adjudicatory decisionmakers were to be restricted under § 2.781 to comply with the APA's separation of functions prohibition.

II. Comments and Commission Responses

The Commission received eleven letters of comment that set forth the views of interested utilities, professional organizations, private counsel, and individual members of the public. Ten of the eleven commenters expressed general support for the Commission's effort to revise its ex parte and separation of functions strictures and provided specific comments on particular provisions of the rule. One commenter expressed total dissatisfaction with the proposed rule as an improper attempt to give the NRC staff an opportunity to advise the Commission's hearing boards privately about Commission policy and "what the Commissioners want . . ." A review of the specific comments and the Commission's responses to those comments follows.

A. Definition of "Relevant to the Merits"

Five commenters provided their views on the Commission's discussion of the phrase "relevant to the merits of the proceeding" as it is used in the Sunshine Act, 5 U.S.C. 557(d), and the proposed rule, § 2.780(a), to define those matters

raised in the context of a hearing that are subject to the ex parte restriction. In the proposed rule, the Commission requested comments on whether this phrase should be interpreted to include any issue that must be considered in an uncontested construction permit proceeding even though it is not the object of a dispute among the NPC staff, the applicant, and any intervenors, and any issue that was not raised by any party but nonetheless is considering in an operating license hearing sua sponte by the presiding officer. Three of the commenters thought that the phrase should be interpreted to bar only those private communications relating to issues put into controversy by the parties to the proceeding. Two other commenters expressed the view that private communications should be barred with respect to any issue that a party or the presiding officer proposed to have considered in a particular proceeding, whether consideration is due to the Atomic Energy Act mandate to conduct a hearing on a construction permit or consideration is proposed by a party or the presiding officer.

Under existing practice, ex parte restrictions apply to any substantive matter at issue in a contested proceeding (10 CFR 2.780(a), (e)). A contested proceeding, in turn, is defined as one in which there is a controversy between the staff and the applicant concerning the issuance of or any of the terms and conditions of a license or is one in which a petition for leave to intervene to oppose the application is granted or is pending (10 CFR 2.4(n)). Under this definition, the elements of "controversy" and "matters at issue" are central. We believe this approach also should be applied in interpreting the section 557(d) phrase "relevant to the merits." Accordingly, in the context of a statutorily mandated construction permit proceeding in which no intervenor has sought to contest the application, private communications to adjudicatory employees from interested persons outside the agency relating to matters that are not the subject of controversy in the proceeding between the applicant and the NRC staff would not be considered ex parte. On the other hand, because the Commission has chosen as a matter of policy to allow issues in operating license proceedings to be admitted sua sponte by a presiding officer, as opposed to being resolved informally by the NRC staff, it makes little sense to abandon an important component of that process—the protection against off-the-record communications. Once a matter is "at issue" in an operating license proceeding, whether at the behest of the presiding officer or because it was admitted as a party's contention, a requirement that public disclosure of all communications to the presiding officer relative to the resolution of that contested issue serves to ensure that the proceedings are fairly and impartially conducted. Therefore, private communications to the presiding officer from persons outside the agency concerning sua sponte issues will be considered ex parte.

It should be added that the term "disputed issue" as it is used in the separation of functions provision relating to NRC staff contacts with a presiding officer also would be interpreted in a mandatory construction permit proceeding without intervening interested persons, to include only those matters that are the object of dispute between the applicant and the NRC staff and, in any operating licensing proceeding, those "sua sponte" issues properly raised by a presiding officer.

B. Distinction between Accusatory and Nonaccusatory Proceedings

In the proposed rule, the Commission indicated that, for purposes of applying the separation of functions bar, it would interpret APA section 554(d) as making separation of functions applicable both to accusatory proceedings, i.e., those in which the primary concern is the lawfulness of party conduct, and to nonaccusatory proceedings, such as initial licensing, in which the decision typically is reached on the basis of legislative facts and general policy considerations. (51 FR at 10395) As a result, separation of functions is applicable to anyone performing a "litigating" function in a particular proceeding, rather than being limited only to those acting as "prosecutors," as the language of section 554(d) might be read to suggest. Three commenters asserted that the Commission should not adopt such a narrow reading but rather should limit separation of functions only to accusatory proceedings. This effectively would permit private consultations between NRC staff members involved in litigating a case and adjudicatory officials regarding contested issues in at least some initial licensing cases, including reactor construction permit and operating license proceedings.

As the Commission indicated previously in the proposed rule (51 FR at 10395), to attempt to differentiate between accusatory and nonaccusatory proceedings would require the Commission to apply subtle and difficult distinctions in an effort to determine to what extent the focus of a particular proceeding will be "prosecutorial." We continue to believe that such an attempt is not a worthwhile use of Commission resources, particularly because considerable uncertainty exists about whether the application of the accusatory/nonaccusatory distinction is appropriate under section 554(d) (51 FR at 10397). Further developments in the case law governing this distinction may cause the Commission to revisit this issue in the future. At present, however, the Commission will impose separation of functions restrictions on private communications between agency adjudicatory officials and the NRC staff in all formal adjudicatory proceedings conducted under 10 CFR Part 2, Subpart G, without regard to whether the proceeding otherwise might appear to be accusatory or nonaccusatory.

C. Public Designation As an Adjudicatory Employee Only for Staff Advisors Consulted "On a Continuing Basis"

Although the Commission will not apply the separation of functions restriction on the basis of the accusatory/nonaccusatory distinction, it will limit that restriction as it applies to private communications with the Commission solely to those staff members who have performed "investigating or litigating" functions in a particular proceeding. Thus, a member of the NRC staff who was not involved in conducting or supervising the technical review of an application that is the subject of an adjudicatory proceeding or the litigation of the matter before an Atomic Safety and Licensing Board or an Atomic Safety and Licensing Appeal Board can serve as a confidential advisor to the Commission with respect to the application and the merits of the adjudication. Section 2.4(9) of the proposed rule stated that if a staff member was to be consulted by the Commission with respect to the issues in a particular proceeding "on a continuing basis," that person would be appointed as an adjudicatory employee and the parties to the proceeding would be given notice of that appointment. Two commenters asserted that public designation only for staff advisors consulted "on a continuing basis" was unfair and created a great potential for abuse. Upon further consideration, the Commission has decided that the purposes of the rule will be better served if each member of the staff who will be used as an advisor in an adjudication is appointed publicly as an adjudicatory employee without regard to the duration of anticipated service.

D. Limiting Designation As an Adjudicatory Employee to Particular Issues in a Proceeding

Two commenters also suggested that because the ex parte prohibition on private contacts with persons outside the agency will attach to any staff member designated as an adjudicatory employee, the Commission should act to limit the impact of the designation by making it applicable only to the specific issues about which the Commission wishes advice from the employee. After reviewing this comment carefully, the Commission has decided not to adopt such a provision.

This proposal for issue by issue adjudicatory advisors arguably would avoid the ex parte ban on outside contacts regarding the nondesignated issues. It also appears that, carried to its logical conclusion, this proposal would sanction staff members simultaneously assuming the dual role of adjudicator and investigator/litigator in the same proceeding, at least so long as different issues were involved. Neither the language of section 554(d), which states that a person performing an investigative or litigating function is not to advise in a "case or a factually related case," nor the Attorney General's Manual on the APA, which speaks of the bar in terms of "cases" or "proceedings" rather than "issues," *see* United States Dep't of Justice, *Attorney General's Manual on the Administrative Procedure Act* 54–55 & n.6 (1947), suggests that such an issue by issue application of the separation of functions bar is appropriate. Similarly, judicial precedent suggests that the separation of functions bar should be applied to prohibit participation in all aspects of a proceeding by a staff member performing an investigative or litigative function in that proceeding, not just with respect to those issues with which the individual has particular involvement. *See Trans World Airlines, Inc.* v. *CAB*, 254, F.2d 90, 91 & n.2 (D.C. Cir. 1958). This authority, in combination with the practical complications involved in drawing lines to separate investigating or litigating participation in part of a proceeding from decisionmaking participation in other parts, convinces the Commission that it should not adopt this suggestion.

E. Allowing Former Adjudicatory Advisors to Perform Litigative or Investigative Functions In the Same Proceeding

Related to the question of issue by issue designation of adjudicatory employees is the issue whether an employee who has put aside the mantle of adjudicatory employee can thereafter become a staff litigator or investigator in the same proceeding. The proposed rule did not contain any provision that addressed this question. However, in response to a Commission request for comments on the propriety of including language that would permit a switch in roles, three commenters supported the addition of a provision. Two commenters, however, opposed the suggestion citing the unfair advantage a former advisor would give the staff in accusatory proceedings because of the insights he or she had gained in the decisionmaking process and the detrimental effect allowing such a switch in roles would have in public confidence in the fairness of the proceeding.

The Commission is not convinced that the change from the role of an adjudicatory decisionmaker's advisor to a litigator or investigator necessarily is one the APA or constitutional due process would preclude. Nonetheless, we do agree with the observation of one of the commenters opposed to allowing this type of role change that present staffing levels make it unlikely that NRC staff members who previously have provided advice to agency adjudicatory decisionmakers will need to be pressed into service as litigators or investigators in the same proceeding. Accordingly, the Commission believes that the best course is to leave this issue for determination if and when it arises in a particular case.

F. Restriction on Communications Between Members of the Licensing Board and the Appeal Panel

The proposed rule would not change existing agency practice, embodied in § 2.719(c) and Part 2, App. A., IX(c), that precludes consultations between members of the Atomic Safety and Licensing Board assigned to a proceeding and members of the Atomic Safety and Licensing Appeal Panel on any fact in issue in the proceeding. The Commission, however, requested comments on whether this bar to communications was necessary or appropriate (51 FR at 10398). Six of the commenters addressed this issue and all supported retaining the present practice, citing the decisionmaking function of the Boards and the need to ensure fair review procedures that protect the integrity of the administrative record. The Commission will do so.

G. Exemptions for Private Staff Consultations with the Commission Regarding Late-filed Contentions and Motions to Reopen

In setting out a number of possible exemptions to the separation of functions provision of the proposed rule, the Commission proposed that private consultations between the NRC staff and Commission be permitted in instances when a request was made to add issues to a proceeding after an initial decision is rendered or to reopen the record after an initial or final decision. Proposed § 2.781(b)(2) (v) and (vi). In support of each of these exemptions, the Commission referenced judicial decisions allowing agency staff contacts with agency heads about the addition of issues to a proceeding or about reopening the record (51 FR at 10399). The three commenters that addressed these exemptions all questioned their validity, asserting that the Commission was going beyond what was sanctioned by the cases, at least prior to the time a final agency decision is rendered. Upon further consideration, the Commission has decided to delete these proposed exemptions as they relate to attempts to add issues or reopen the record prior to a final agency decision.

Nonetheless, the United States Court of Appeals for the District of Columbia Circuit's decision in *RSR Corp.* v. *FTC*, 656 F.2d 718 (D.C. Cir. 1981) (per curiam), fairly can be read as holding that once an agency adjudicatory proceeding, or a discrete portion of that proceeding, has become administratively final, which would include the conclusion of any Commission discretionary review of Appeal Board decisions under 10 CFR 2.786, the separation of functions bar effectively ends for the purpose of considering any later requests to reopen or otherwise reinstitute the proceeding. Two commenters suggested the Commission include a provsion in its proposed rule indicating when the separation of functions prohibition would end. In response to that comment, and in line with *RSR Corp.*, we have decided to add a sentence to § 2.781(d) that accomplish this purpose. Moreover, a parallel provision has been added to § 2.780 to indicate that the ex parte prohibition will be terminated at the same point.

H. Additional Comments by Particular Parties

In addition to the matters discussed above that were the subject of multiple

comments, other commenters raised the specific issue addressed below.

1. Scientists and Engineers for Secure Energy, Inc.

The Scientists and Engineers for Secure Energy, Inc., ("SESE") questioned in general the agency's use of "accusatory" adversarial, trial-type procedures for nuclear power plant licensing. According to SESE, the trial-type hearing required by 10 CFR Part 2, Subpart G is unnecessarily legalistic and stands in the way of getting to the appropriate factual and analytical bases for making informed judgments about those technical disputes that form a great portion of the controversy in power plant licensing proceedings. This comment relates to matters that are beyond the bounds of this rulemaking proceeding; however, the Commission would note that in the context of its consideration of the certification process for standardized designs for nuclear power plants, it has been considering ways to simplify the procedural aspects of any hearings held as part of that process. In addition, it recently has taken steps in the area of materials licensing hearing procedures that are intended to address some of the criticisms of the formal adjudicatory process raised by SESE (52 FR 20089; May 29, 1987 (proposed rule on informal hearing procedures for materials licensing adjudications)).

2. Pars Associates, Inc.

Pars Associates, Inc. ("PAI") suggested that the proposed definition of "interested persons" subject to ex parte restrictions somehow acts to restrict unduly the participation of large numbers of the public in the adjudicatory process. In fact, that definition does not limit participation at all, but merely identifies those persons outside the agency whose communications to an adjudicatory decisionmaker must be made on the record to avoid being considered as improper ex parte communications.

3. Marvin Lewis

Commenter Marvin Lewis stated that he opposed the proposed rule because it would provide an opportunity for the Commission and the NRC staff to discuss policy matters and those discussions could be used by the staff to "continuously" update the hearing boards on the Commission's position with respect to particular hearings. This clearly is incorrect. As the discussion accompanying the proposed rule made apparent (51 FR at 10399), under § 2.781(e) staff members who become adjudicatory advisors cannot be the conduit for otherwise improper communications from the Commission to those staff members serving as litigators or investigators in a hearing proceeding. That provision is retained in the final rule.

4. Shaw, Pittman, Potts & Trowbridge

The law firm of Shaw, Pittman, Potts & Trowbridge, on behalf of its utility clients, noted that paragraph (6) of the proposed definition of "Commission adjudicatory employee" in § 2.4 should be revised to reflect the consolidation and reorganization of the Office of the General Counsel and the Office of the Executive Legal Director and suggested that the phrase "in a proceeding" be added to paragraph (8) to make it clear that the appointment of a staff member to serve as an adjudicatory employee applies only to the particular proceeding for which the appointment is made. This has been done. Further, in response to another of the firm's comments regarding the scope of the phrase "interested person" as it is used to define those outside the agency who are subject to the restriction on ex parte communications, the Commission notes that the phrase is intended to include coverage of the representative of an interested State, county, municipality, or an agency thereof, participating in a proceeding in accordance with 10 CFR 2.715(c).

5. Bishop, Liberman, Cook, Purcell & Reynolds

On behalf of several utility clients, the law firm of Bishop, Liberman, Cook, Purcell & Reynolds suggested that proposed §§ 2.780(f)(4) and 2.781(b)(iv), which provide an exception from the ex parte and separation of functions restrictions for communications on generic issues, be revised to delete language indicating that the communication must not be "associated by" the Commission adjudicatory employee, the NRC officer or employee performing investigative or litigating functions, or the person outside the agency "with the resolution of any proceeding under [10 CFR Subpart G] pending before the NRC." According to the commenter, this language improperly places the focus on how the NRC adjudicatory officials reviewing the communication or the NRC staff member or interested person making the communication view the generic issue in relation to an ongoing Subpart G formal adjudicatory proceeding.

As was explained in the proposed rule (51 FR at 10397), this language was added to make it clear that off the record communications regarding generic matters are not to be presented or used as a basis for resolving issues in a formal, "on the record" proceeding. Thus, a communicator's attempt to associate a communication purportedly relating to a generic matter with the resolution of matters in a proceeding or an adjudicator's association of an otherwise proper communication on generic matters with the resolution of issues in a formal proceeding would make those communications subject to the ex parte or separation of functions restrictions and require that the agency take appropriate measures, such as public disclosure of the communication, in accordance with § 2.780(c) or § 2.781(c). It was the Commission's intention, however, that a determination about whether a "generic" matter was in fact associated with the resolution of contested issues in a proceeding should not be governed solely by the perceptions of those making or using the communication. Accordingly, the suggested deletion will be made with the intent that it is only to dispell any ambiguity about the standard for determining whether a "generic" communication was, in fact, one actually associated with a licensing proceeding.

6. Leboeuf, Lamb, Leiby & MacRae

On behalf of a number of its utility clients, the law firm of LeBoeuf, Lamb, Leiby & MacRae questioned whether, given the designation of duties in 10 CFR 1.33 that suggests they are not involved in the decisional process, the Secretary of the Commission and employees of the Office of the Secretary should be designated as "Commission adjudicatory employees." The involvement of employees of the Office of the Secretary in the decision making process is in major part administrative. The Secretary nevertheless does have the authority to issue certain procedural orders that can have an important impact on a proceeding, *see* 10 CFR 2.772. Employees of that office also have access to otherwise confidential information concerning Commission decisions and oft times aid the Commission's decisional process by facilitating the exchange of views between Commissioner offices. Employees of the Office of Secretary therefore will continue to be designated as adjudicatory employees.

This commenter also suggested that the Commission delete § 2.780(d) that provides for sanctions against outside parties who knowingly make ex parte communications. The commenter opines that this provision is unnecessary because the appropriate remedy for these communications is to make them

public and notify the parties. It has been the Commission's experience that this is the appropriate remedy for an ex parte communication. Nonetheless, it is not inconceivable, as the Congress recognized in adopting APA section 557(d)(1)(D), the statutory basis for § 2.780(d), that same violations may warrant the types of sanctions against the offending party that § 2.780(d) authorizes. The Commission therefore declines to delete this provision.

This commenter also declared that proposed § 2.781(b)(3), which states that "[n]one of the communications permitted by paragraph (b)(2) of this section is to be associated * * * with the resolution of any proceeding * * *," is unclear and suggested the substitution of the word "used" for "associated." The term "associated," which also is utilized in § 2.780(f)(4), is intended to have a somewhat broader meaning than "used" to the extent that it covers not only the use of prohibited communications, but also the act of making the communication, even if it is not used by the adjudicatory employee. The Commission likewise declines to change this provision.

Finally, this commenter suggested that in section VII of paragraph (c)(2) of Appendix A to Part 2 the reference to "matters certified" pursuant to §§ 2.720(h) and 2.744(e) should be deleted because neither referenced section calls certification of anything. Previously, these sections did provide for automatic certification to an Atomic Safety and Licensing Appeal Board or to the Commission of a presiding officer's order allowing discovery against the NRC staff under a subpoena or request for the production of documents (37 FR 15127, 15132, 15135; July 28, 1972). Under the terms of Appendix A, however, such a discovery dispute was not considered a substantive matter at issue in the proceeding requiring that there be no intraagency consultations and communications regarding the dispute (37 FR at 15124). Upon further consideration, we see no reason to retain this discovery distinction given the later revision of the Commission's discovery rules to provide the presiding officer with the discretion to order discovery against the NRC staff without mandatory Commission interlocutary review (40 FR 2973; Jan. 17, 1975). Accordingly, this discovery certification provision now is being deleted from Appendix A, section VII(c)(2).

7. Baltimore Gas and Electric Company

Commenter Baltimore Gas and Electric Company questioned the propriety of proposed § 2.781(f), which requires that the substance of a communication between an adjudicatory decisionmaker and an advisor that is properly made under the separation of functions bar nonetheless may be required to be disclosed if the adjudicatory decisionmaker's initial or final decision is stated to rest in whole or in part on information made known in the communication. The commenter suggests that this is insufficient because the communication is made public only if it is relied upon. However, this comment fails to recognize that the scope of this provision goes only to communications that otherwise are made in conformance with the separation of functions restriction. Under § 2.781(c) all private communications from a litigator or investigator to an adjudicatory decisionmaker barred by separation of functions considerations must be publicly disclosed. The § 2.781(f) provision is a different, border protection. It is designed to ensure that an adjudicatory decision is based upon the record developed during the hearing, not upon the otherwise proper but nonetheless private revelations of an adjudicatory advisor that provide a new factual or analytical basis for the decision. The Commission sees no basis for deleting this provision.

8. GPU Nuclear Corporation

GPU Nuclear Corporation suggested that the Commission include a definition of the conditions under which a licensee may participate in ex parte communications with the NRC staff on issues relating to an adjudicatory proceeding. Because it is clear from §§ 2.780 and 2.781 that the only ex parte/separation of functions restraint upon communications between an applicant or licensee and members of the NRC staff is for those staff members who are appointed as adjudicatory advisors, no further definition is needed to reiterate this point. Also unnecessary, the Commission finds, is this commenter's suggestion that a specific provision be included to allow the Commission to decide and announce the termination of the appointment of a staff member as an adjudicatory advisor. This power is inherent in the Commission's administrative authority to direct the activities of members of the NRC staff and need not be spelled out further.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed regulation.

Paperwork Reduction Review

This final rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.).

Regulatory Analysis

Under the APA, 5 U.S.C. 554(d), 557(d), in formal adjudicatory proceedings, restrictions apply to communications between adjudicators and agency employees performing investigative or litigating functions or interested persons outside the agency. The revisions in this final rule's provisions on ex parte communications will conform the language of the agency's present regulations more closely to the Sunshine Act's provisions restricting communications with persons outside the agency. This amendment does not affect the substantive restrictions on outside communications applicable under present regulations. Under the revised separation of functions rule, however, there will be an increased possibility for adjudicator/staff communications because those staff members not involved in an investigative or litigating function in a particular proceeding can advise decisionmakers on matters at issue in that proceeding. The potential for increased information to adjudicators makes this rule change preferable to existing requirements. While other possible rule change options exist, notably invocation of the "initial licensing" exemption in the APA or reading the section 554(d) restriction to apply only to "prosecutors" rather than "litigators," serious questions about the efficacy of these particular revisions make them unacceptable both in terms of agency resources to defend the rules and the possibility of judicial reversal of licensing actions based on the application of the rules. The final rule thus is the preferred alternative and the cost involved in its promulgation and application is necessary and appropriate. The foregoing discussion constitutes the regulatory analysis for this final rule.

Regulatory Flexibility Certification

This final rule will not have a significant economic impact upon a substantial number of small entities. Most entities seeking or holding construction permits or Commission licenses that would be subject to the revised ex parte provisions would not fall within the definition of small

businesses found in section 34 of the Small Business Act, 15 U.S.C. 632, in the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121, or in the NRC's size standards published December 9, 1985 (50 FR 50241). Although intervenors subject to the provision on ex parte communications likely would fall within the pertinent Small Business Act definition, the ex parte rule would not reduce or increase the litigation burden of intervenors because it is substantially the same as the restrictions now in effect. Although the revised restrictions on intraagency communications found in the separation of functions provision might result in some cost reduction in proceedings in that the increased availability to adjudicators of staff expertise may shorten the proceedings, that reduction probably will be negligible. Thus, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), the NRC hereby certifies that this rule does not have a significant economic impact upon a substantial number of small entities.

Backfit Analysis

This final rule does not modify or add to systems, structures, components, or design of a facility; the design approval or manufacturing license for a facility; or the procedures or organization required to design, construct, or operate a facility. Accordingly, no backfit analysis pursuant to 10 CFR 50.109(c) is required for this final rule.

List of Subjects

10 CFR Part 0

Conflict of interest, Penalty.

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC adopts the following amendments to 10 CFR Parts 0 and 2:

PART 0—CONDUCT OF EMPLOYEES

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

Authority: Secs. 25, 161, 68 Stat. 925, 948, as amended (42 U.S.C. 2035, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); E.O. 11222, 30 FR 6469, 3 CFR 1964–1965 COMP., p. 306; 5 CFR 735.104.

Sections 0.735–21 and 0.735–29 also issued under 5 U.S.C. 552, 553. Section 0.735–26 also issued under secs. 501, 502, Pub. L. 95–521, 92 Stat. 1864, 1867, as amended by secs. 1, 2, Pub. L. 96–28, 93 Stat. 76, 77 (18 U.S.C. 207).

2. Section 0.735—48 is revised to read as follows:

§ 0.735–48 Restricted communications.

Certain employee communications are prohibited in formal adjudicatory proceedings under §§ 2.780 and 2.781 of this chapter.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

3. The authority citation for Part 2 is revised to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 68 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs 53, 62, 63, 81, 103 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 186, 234, 68 Stat. 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 as amended (42 U.S.C. 4332). Sections 2.700a, 2.781 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Appendix A also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1473 (42 U.S.C. 2135). Appendix B also issued under sec. 10, Pub. L. 99–240, 99 Stat. 1842 (42 U.S.C. 2021b et seq.)

4. Section 2.4 is amended by removing the alphabetical paragraph designators, alphabetizing all words defined, and adding three new definitions to read as follows:

§ 2.4 Definitions.

* * * * *

"Commission adjudicatory employee" means—

(1) The Commissioners and members of their personal staffs;

(2) The members of the Atomic Safety and licensing Appeal Panel and staff assistants to the Panel;

(3) The members of the Atomic Safety and Licensing Board Panel and staff assistants to the Panel;

(4) A presiding officer appointed under § 2.704, including an administrative law judge, and staff assistants to a presiding officer;

(5) Special assistants (as defined in § 2.772);

(6) The General Counsel, the Solicitor, the Deputy General Counsel for Licensing and Regulation, and employees of the Office of the General Counsel under the supervision of the Solicitor or the Deputy General Counsel for Licensing and Regulation;

(7) The Secretary and employees of the Office of the Secretary; and

(8) Any other Commission officer or employee who is appointed by the Commission, the Secretary, or the General Counsel to participate or advise in the Commission's consideration of an initial or final decision in a proceeding. Any other Commission officer or employee who, as permitted by § 2.781, participates or advises in the Commission's consideration of an initial or final decision in a proceeding must be appointed as a Commission adjudicatory employee under this paragraph and the parties to the proceeding must be given written notice of the appointment.

* * * * *

"Ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given.

* * * * *

"Investigative or litigating function" means —

(1) Personal participation in planning, conducting, or supervising an investigation; or

(2) Personal participation in planning, developing, or presenting, or in supervising the planning, development or presentation of testimony, argument, or strategy in a proceeding.

* * * * *

§ 2.719 [Removed]

5. Section 2.719 is removed.

6. Part 2 is amended by revising the undesignated centerhead immediately after § 2.772 to read as follows:

Restricted Communications

7. Section 2.780 is revised to read as follows:

§ 2.780 Ex parte communications.

In any proceeding under this subpart—

(a) Interested persons outside the agency may not make or knowingly

cause to be made to any Commission adjudicatory employee, any ex parte communication relevant to the merits of the proceeding.

(b) Commission adjudicatory employees may not request or entertain from any interested person outside the agency or make or knowingly cause to be made to any interested person outside the agency, and ex parte communication relevant to the merits of the proceeding.

(c) Any Commission adjudicatory employee who receives, makes, or knowingly causes to be made a communication prohibited by this section shall ensure that it and any responses to the communication promptly are served on the parties and placed in the public record of the proceeding. In the case of oral communications, a written summary must be served and placed in the public record of the proceeding.

(d) Upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of this section, the Commission or other adjudicatory employee presiding in a proceeding may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party to show cause why its claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of the violation.

(e) (1) The prohibitions of this section apply—

(i) When a notice of hearing or other comparable order is issued in accordance with §§ 2.104(a), 2.105(e)(2), 2.202(c), 2.204, 2.205(e), or 2.703; or

(ii) Whenever the interested person or Commission adjudicatory employee responsible for the communication has knowledge that a notice of hearing or other comparable order will be issued in accordance with §§ 2.104(a), 2.105(e)(2), 2.202(c), 2.204, 2.205(e), or 2.703.

(2) The prohibitions of this section cease to apply to ex parte communications relevant to the merits of a full or partial initial decision when, in accordance with § 2.786, the time has expired for Commission review of the Atomic Safety and Licensing Appeal Board's decisions on the full or partial initial decision.

(f) The prohibitions in this section do not apply to—

(1) Requests for and the provision of status reports;

(2) Communications specifically permitted by statute or regulation;

(3) Communications made to or by Commission adjudicatory employees in the Office of the General Counsel regarding matters pending before a court or another agency; and

(4) Communications regarding generic issues involving public health and safety or other statutory responsibilities of the agency (e.g., rulemakings, congressional hearings on legislation, budgetary planning) not associated with the resolution of any proceeding under this subpart pending before the NRC.

8. New § 2.781 is added to read as follows:

§ 2.781 Separation of functions.

(a) In any proceeding under this subpart, any NRC officer or employee engaged in the performance of any investigative or litigating function in that proceeding or in a factually related proceeding may not participate in or advise a Commission adjudicatory employee about the intitial or final decision on any disputed issue in that proceeding, except—

(1) As witness or counsel in the preceeding;

(2) Through a written communication served on all parties and made on the record of the proceeding; or

(3) Through an oral communication made both with reasonable prior notice to all parties and with reasonable opportunity for all parties to respond.

(b) The prohibition in paragraph (a) of this section does not apply to—

(1) Communications to or from any Commission adjudicatory employee regarding—

(i) The status of a proceeding;

(ii) Matters with regard to which the communications specifically are permitted by statute or regulation;

(iii) Agency participation in matters pending before a court or another agency; or

(iv) Generic issues involving public health and safety or other statutory responsibilities of the agency (e.g., rulemakings, congressional hearings on legislation, budgetary planning) not associated with the resolution of any proceeding under this subpart pending before the NRC.

(2) Communications to or from Commissioners, members of their personal staffs, Commission adjudicatory employees in the Office of the General Counsel, and the Secretary and employees of the Office of the Secretary, regarding—

(i) Initiation or direction of an investigation or initiation of an enforcement proceeding;

(ii) Supervision of agency staff to ensure compliance with the general policies and procedures of the agency;

(iii) Staff priorities and schedules or the allocation of agency resources; or

(iv) General regulatory, scientific, or engineering principles that are useful for an understanding of the issues in a proceeding and are not contested in the proceeding.

(3) None of the communications permitted by paragraph (b)(2) (i)–(iii) of this section is to be associated by the Commission adjudicatory employee or the NRC officer or employee performing investigative or litigating functions with the resolution of any proceeding under this subpart pending before the NRC.

(c) Any Commission adjudicatory employee who receives a communication prohibited under paragraph (a) of this section shall ensure that it and any responses to the communication are placed in the public record of the proceeding and served on the parties. In the case of oral communications, a written summary must be served and placed in the public record of the proceeding.

(d) (1) The prohibitions in this section apply—

(i) When a notice of hearing or other comparable order is issued in accordance with §§ 2.104(a), 2.105(e)(2), 2.202(c), 2.204, 2.205(e), or 2.703; or

(ii) Whenever an NRC officer or employee who is or has reasonable cause to believe he or she will be engaged in the performance of an investigative or litigating function or a Commission adjudicatory employee has knowledge that a notice of hearing or other comparable order will be issued in accordance with §§ 2.104(a), 2.105(e)(2), 2.202(c), 2.204, 2.205(e), or 2.703.

(2) The prohibitions of this section will cease to apply to the disputed issues pertinent to a full or partial initial decision when, in accordance with § 2.786, the time has expired for Commission review of the Appeal Board's decision on the full or partial initial decision.

(e) Communications to, from, and between Commission adjudicatory employees not prohibited by this section may not serve as a conduit for a communication that otherwise would be prohibited by this section or for an ex parte communication that otherwise would be prohibited by § 2.780.

(f) If an initial or final decision is stated to rest in whole or in part on fact or opinion obtained as a result of a communication authorized by this section, the substance of the communication must be specified in the record of the proceeding and every party must be afforded an opportunity to controvert the fact or opinion. If the parties have not had an opportunity to controvert the fact or opinion prior to the filing of the decision, a party may

controvert the fact or opinion by filing an appeal from an initial decision, or a petition for reconsideration of a final decision that clearly and concisely sets forth the information or argument relied on to show the contrary. If appropriate, a party may be afforded the opportunity for cross-examination or to present rebuttal evidence.

9. Appendix A to Part 2 is amended by revising paragraph (c) of section VII and paragraph (c) of section IX to read as follows:

Appendix A—Statement of General Policy and Procedure: Conduct of Proceedings for the Issuance of Construction Permits and Operating Licenses for Production and Utilization Facilities for Which a Hearing Is Required Under Section 189A of the Atomic Energy Act of 1954, As Amended*

* * * * *

VII. General

* * * * *

(c) Section 2.781 specifies when consultation between Commissioners or boards, on the one hand, and the staff, on the other hand, is permitted in licensing proceedings conducted under Subpart G. Section 2.781 also permits a board, in the same type of proceeding, to consult with members of the panel from which the members of the board are drawn.

* * * * *

IX. Licensing Proceedings Subject to Appellate Jurisdiction of Atomic Safety and Licensing Appeal Board

* * * * *

(c) Consultation between members of the Atomic Safety and Licensing Appeal Board for a particular proceeding and the staff is permitted on the conditions specified in 10 CFR 2.781. However, members of the atomic safety and licensing boards for particular proceedings may not consult on any disputed issue in those proceedings with members of the Appeal Panel.

* * * * *

Dated at Washington, DC, this 25th day of March, 1988.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 88-7099 Filed 3-30-88; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-3222]

Preferred Physicians, Inc.; 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 prohibits, among other things, an association of doctors in Tulsa, Okla., from conspiring to restrain competition and from fixing or increasing the prices they charge third-party payers for their services. In addition, the respondent is prohibited, for five years, from advising its members on the desirability or appropriateness of any price to be paid for physicians' services by any third-party payers.

DATE: Complaint and Order issued February 26, 1988.[1]

FOR FURTHER INFORMATION CONTACT: Toby G. Singer, FTC/S-3115, Washington, DC 20580. (202) 326-2762.

SUPPLEMENTARY INFORMATION: On Thursday, December 3, 1987, there was published in the **Federal Register**, 52 FR 45970, a proposed consent agreement with analysis In the Matter of Preferred Physicians, Inc., a corporation, for the purpose of soliciting public comment. 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; S.13.367 Members. Subpart—Combining Or Conspiring: S.13.384 Combining or conspiring; S.13.430 To enhance, maintain or unify prices; S.13.433 To fix prices; S.13.470 To restrain and monopolize trade. Subpart—Corrective Actions And/Or Requirements: S.13.533 Corrective actions and/or requirements; S.13.533-50 Maintain means of communication; S.13.533-60 Release of general, specific, or contractual constrictions, requirements, or restraints. Subpart—Enforcing Dealings Or Payments Wrongfully; S.13.1045 Enforcing dealings or payments wrongfully.

List of Subjects in 16 CFR Part 13

Physicians, Doctors, Trade practices.

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

(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)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 88-7078 Filed 3-30-88; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket No. 9199]

Rochester Anesthesiologists; 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 prohibits, among other things, the anesthesiologists of Rochester, NY from boycotting third-party insurance providers by combining or taking any joint action against competing anesthesiologists; by engaging in price fixing or tampering with the reimbursement levels or terms of any third-party payor for anesthesia services; or by fixing or setting their fees.

DATE: Complaint issued September 30, 1985. Order issued March 8, 1988.[1]

FOR FURTHER INFORMATION CONTACT: David M. Narrow, FTC/S-3115, Washington, DC 20580. (202) 326-2744.

SUPPLEMENTARY INFORMATION: On Thursday, Nov. 19, 1987, there was published in the **Federal Register**, 52 FR 44408, a proposed consent agreement with analysis In the Matter of Rochester Anesthesiologists, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

A comment was filed and considered by the Commission. 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—Combining Or Conspiring: Section 13.384

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

Combining or conspiring; S.13.385 To boycott seller-suppliers; S.13.395 To control marketing practices and conditions; S.13.430 To enhance, maintain or unify prices. Subpart—Corrective Actions And/Or Requirements: S.13.533 Corrective actions and/or requirements; S.13.533–20 Disclosures; S.13.533–60 Release of general, specific, or contractual constrictions, requirements, or restraints.

List of Subjects in 16 CFR Part 13

Anesthesiologists, 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)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 88–7079 Filed 3–30–88; 8:45 am]

BILLING CODE 6750–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 300

[Rel. No. SIPA–143; File No. SIPC 87–1]

Rules of the Securities Investor Protection Corporation

AGENCY: Securities and Exchange Commission.

ACTION: Final rule and approval order.

SUMMARY: The Commission approves a rule which was submitted to the Commission for approval by SIPC as required by section 3(e)(2) of the Securities Investor Protection Act of 1970 ("SIPC"). SIPC's proposed rule change establishes a uniform procedure for the satisfaction of claims for cash and claims for securities in a liquidation proceeding under SIPA. Because SIPC rules approved by the Commission have the force and effect as if promulgated by the Commission, those rules are published in this title of the Code of Federal Regulations.

EFFECTIVE DATE: March 25, 1988.

FOR FURTHER INFORMATION CONTACT: Harry Melamed, Division of Market Regulation (202/272–2412), Securities and Exchange Commission, 450 Fifth Street NW, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: Pursuant to section 3(e)(2) of SIPA, 15 U.S.C. 78 ccc(e)(2), on September 23, 1987 SIPC filed with the Securities and Exchange Commission a proposed rule change (File No. 87–1). The proposal, as amended on November 16, 1987, establishes a uniform procedure for the satisfaction of claims for cash and claims for securities in either a liquidation proceeding or a direct payment procedure pursuant to SIPA.

The new SIPC series 500 rules set forth the standards to determine whether a customer's securities transaction will be classified as a claim for cash or a claim for securities for purposes of a SIPA liquidation proceeding or direct payment procedure.

Proposed Rule 501 states that a customer having securities in an account with a SIPC member ("debtor") will have a claim for cash with respect to any sale if either (1) the debtor has sent written confirmation to the customer that the securities have been sold or (2) the securities have become the subject of a completed or executory contract for sale for the account (whether or not a confirmation has been sent to the customer). Proposed Rule 501 further states that a customer having cash in an account with a debtor will still have a claim for cash even though the customer has instructed the debtor to purchase securities for the account unless either (1) the debtor has sent written confirmation to the customer that securities have been purchased or (2) the securities have become the subject of a completed or executory contract for purchase for the account (whether or not a written confirmation has been sent to the customer).

Proposed Rule 502 states that a customer having cash in an account with a debtor will have a claim for securities with respect to any purchase if either (1) the Debtor has sent written confirmation to the customer that the securities have been purchased or (2) the securities have become the subject of a completed or executory contract for purchase for the account (whether or not a confirmation has been sent to the customer). Proposed Rule 502 further states that a customer having securities in an account with a debtor will still have a claim for securities even though the customer has instructed the debtor to sell the securities unless either (1) the debtor has sent written confirmation to the customer that the securities have been sold or (2) the securities have become the subject of a completed or executory contract for sale for the account (whether or not a confirmation has been sent to the customer).

Proposed Rule 503 provides that the series 500 rules shall neither limit the rights of a trustee in a SIPA liquidation to avoid any securities transaction as fraudulent, preferential, or otherwise voidable under applicable law nor limit the right of SIPC in a direct payment procedure to reject a claim for cash or a claim for securities if the claim arose from a securities transaction which would be avoided in a SIPA liquidation.

The proposed rule change together with the terms of substance was published for comment by the Commission in Release No. SIPA–141, January 19, 1988, which appeared in the **Federal Register** on January 22, 1988 (53 FR 1793). No comment letters were received.

I. SIPC Rationale for Proposed Rule Change

SIPC has provided the following rationale for the proposed rule change.

SIPC indicates that SIPC and trustees appointed under SIPA have frequently litigated questions concerning whether a customer with a claim in a SIPA proceeding is entitled to a claim for cash or a claim for securities.[1] In each instance, SIPC has successfully proposed that a customer be satisfied based upon the customer's legitimate expectation of what the customer had in his or her account at the time of the demise of the SIPC member firm.[2]

SIPC states that customers have sometimes objected to having their claim deemed a claim for cash, particularly when, as a claim for cash, the claim exceeds the maximum amount SIPC may advance to a trustee to satisfy a claim for cash. That limit is currently $100,000, while the limit on a claim for securities is $500,000.[3] Conversely, customers have sometimes objected to having their claims treated as a claim for securities when the underlying value of the security in question has declined.

SIPC believes that the proposed rules will provide both nationwide uniformity and reasonable certainty for customers as to how their claims will be treated in the event of the failure of a SIPC member, and will provide an objective standard for determining each claimant's legitimate expectations. SIPC indicates that the proposed rules are in complete accord with all final judicial decisions on this subject, including

[1] *See In re Weis Securities, Inc.; Gans v. Reddington*, CCH Fed. Sec. L. Rep. ¶ 94,780, p. 96,576 (S.D.N.Y. 1974); *SIPC, SEC v. Morgan, Kennedy & Co., Inc.*, 3 B.C.D. 15 (S.D.N.Y. 1977); *In re June S. Jones Co.*, 52 B.R. 810 (Bkrtcy. D. Oregon, 1985); *In re Bell & Beckwith; Murray v. McGraw*, 821 F. 2nd 333 (6th Cir. 1987).

[2] SIPC indicates that one of the goals of SIPA is to allow a trustee to "purchase securities as necessary for the delivery of securities to customers in satisfaction of their claims for net equities based on securities," where it is possible for the trustee to do so in a fair and orderly market. See SIPA section 8(d); 15 U.S.C. 78fff–2(d). This permits the trustee to fulfill one of the enumerated duties of a trustee under SIPA to "deliver securities to or on behalf of customers to the maximum extent practicable in satisfaction of customer claims for securities of the same class and series of an issuer" under SIPA section 7(b)(1), 15 U.S.C. fff–1(b)(1).

[3] *See* SIPA section 9(a)(1), 15 U.S.C. 78fff–3(a)(1).

cases decided prior to SIPA's enactment.[4]

SIPC argues that the proposed rules also give full effect to the Congressional intent to "satisfy the customers' legitimate expectations" and "restore the customer to his position prior to the broker-dealer's financial difficulties."[5] Indeed, SIPC believes that the results reached under the proposed rules will affirmatively effectuate the Commission's previously stated view on this subject. In 1977, during hearings on extensive amendments to SIPA, Commissioner Philip A. Loomis stated that "*[w]hen a customer sells securities, his claim from that time until settlement and delivery of the funds is a claim for cash.*"[6] SIPC indicates that this is the precise result which the proposed rules will reach.

SIPC states that in an effort to reach a different result, customers seeking to disavow securities purchased for their account have sometimes argued that a purchase of securities for their accounts has not occurred until their broker has actually delivered cash to a contra broker and the contra broker has, in turn, actually delivered the securities to their broker. Similarly, customers seeking to disavow a sale of securities have sometimes argued that a sale for their accounts has not occurred until their broker has actually delivered the securities to a contra broker and the contra broker has in turn delivered cash to their broker. SIPC indicates that based upon an analysis of the Uniform Commercial Code ("UCC"), courts have invariably rejected this argument. Thus, SIPC states that sections 8–301 and 8–314(a) of the UCC, as enacted in most states, hold that a customer selling securities loses his rights to those securities simply by delivering the securities to his or her broker.

SIPC notes that at two places [Rules 501(a)(2) and Rule 502(b)(2)], the proposed rules use the phrase "completed or executory contract for sale for or purchase from the account". At two other places [Rules 501(b)(2) and Rule 502(a)(2)], the proposed rules use the phrase "completed or executory contract for purchase for or sale to the account." These phrases are designed to have the proposed rules cover any authorized purchase or sale of securities. The proposed rules thus apply in situations where the debtor is acting as either agent or principal. The proposed rules also apply whether or not the purchase or sale transaction has been completed as between the debtor acting as agent and any contra broker. Thus, for example the selling customer is entitled only to the contract price, regardless of the fact that, as between the customer's broker and another broker, the agreement for the sale is executory, that is, not yet complete. The proposed rules are thus in complete harmony with the results which would obtain under the UCC.[7]

II. Discussion-Commission Action

The Commission believes the proposed rules will satisfy customers' legitimate expectations. For example, a customer that orders securities in his account sold and receives written confirmation of that sale anticipates that his market risk has terminated and that he has a claim for cash in the event of a SIPC liquidation. On the other hand, a customer that orders securities purchased with the cash in his account and receives written confirmation of that purchase believes that he has the investment benefits and risks in that security and that he has a claim for securities in the event of a SIPC liquidation.

In addition to satisfying customers' legitimate expectations, the Commission believes that the proposed rules will provide nationwide uniformity and will allow each customer generally to know, with certainty, how their claims will be treated in the event of the failure of a SIPC member. The rules provide an objective standard for determining each customer's legitimate expectations. By providing such a standard, the rules alleviate potential uncertainty and improve investor confidence in the securities markets.

Accordingly, the Commission finds that the proposed SIPC rules are in the public interest and are consistent with the purposes of the Act.

It is therefore ordered by the Commission, pursuant to section 3(e)(2) of SIPA, that the above mentioned proposed rule change be approved. In accordance with section 3(e)(2) of SIPA, the approved rule change shall be given force and effect as if promulgated by the Commission.

To allow public access to SIPC's rules, SIPC rules that are approved by the Commission are published under Part 300 of 17 CFR Chapter II.

List of Subjects in 17 CFR Part 300

Brokers, Securities, Securities Investor Protection Corporation.

III. Text of Amendments

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 300—RULES OF THE SECURITIES INVESTOR PROTECTION CORPORATION

1. The authority citation for Part 300 continues to read as follows:

Authority: Sec. 3, 84 Stat. 1636, as amended; 15 U.S.C. 78ccc.

2. By adding §§ 300.500–300.503 as follows:

Rules Relating to Satisfaction of a "Claim for Cash" or a "Claim for Securities"

§ 300.500 General.

These rules will be applied in determining whether a securities transaction gives rise to a "claim for cash" or a "claim for securities" on the filing date of either a liquidation proceeding pursuant to the Securities Investor Protection Act (hereinafter referred to as "the Act") or a direct payment procedure pursuant to section 10 of the Act.

§ 300.501 Claim for cash.

(a) Where a SIPC member ("Debtor") held securities in an account for a customer, the customer has a "claim for cash" with respect to any authorized securities sale:

(1) If the Debtor has sent written confirmation to the customer that the securities in question have been sold for or purchased from the customer's account; or

(2) Whether or not such a written confirmation has been sent, if the securities in question have become the subject of a completed or executory contract for sale for or purchase from the account.

(b) Where the Debtor held cash in an account for a customer, the customer has a "claim for cash", notwithstanding the fact that the customer has ordered securities purchased for the account, unless:

(1) The Debtor has sent written confirmation to the customer that the

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[4] *See* cases, *supra; see also, Tepper v. Chichester*, 285 F.2d 309 (9th Cir. 1960); *In re Stanley B. Young & Co.*, 33 F. Supp. 444 (W.D. Ky., 1940).

[5] S. Rep. No. 763, 95th Cong., 2d Sess. 2, 3 U.S. Code Cong. & Admin. News, 95th Cong., 2d Sess., at 765 (1978).

[6] Hearings Before the Subcommittee on Consumer Protection and Finance of the Committee on Interstate and Foreign Commerce, 95th Cong., 1st Sess. 233 (1977), emphasis supplied.

[7] SIPC indicates that the proposed rules will apply to standardized options transactions (as well as other securities transactions) but are not intended to affect the satisfaction of customer claims for such options as provided in SIPC's Series 400 Rules, 17 CFR 300.400.

securities in question have been purchased for or sold to the customer's account; or

(2) Whether or not such a written confirmation has been sent, if the securities in question have become the subject of a completed or executory contract for purchase for or sale to the account.

§ 300.502 Claim for securities.

(a) Where the Debtor held cash in an account for a customer, the customer has a "claim for securities" with respect to any authorized securities purchase:

(1) If the Debtor has sent written confirmation to the customer that the securities in question have been purchased for or sold to the customer's account; or

(2) Whether or not such a written confirmation has been sent, if the securities in question have become the subject of completed or executory contract for sale for or purchase from the account.

(b) Where the Debtor held securities in an account for a customer, the customer has a "claim for securities", notwithstanding the fact that the customer has ordered the securities sold for the account, unless:

(1) The Debtor has sent written confirmation to the customer that the securities in question have been sold for or purchased from the customer's account; or

(2) Whether or not written confirmation of the purchase has been sent, if the securities in question have become the subject of completed or executory contract for sale for or purchase form the account.

§ 300.503 Voidable securities transactions.

(a) Nothing in these Series 500 Rules shall be construed as limiting the rights of a trustee in a liquidation proceeding under the Act to avoid any securities transaction as fraudulent, preferential, or otherwise voidable under applicable law.

(b) Nothing in these Series 500 Rules shall be construed as limiting the right of the Securities Investor Protection Corporation, in a direct payment procedure under section 10 of the Act, to reject a claim for cash or a claim for securities if such claim arose out of a securities transaction which could have been avoided in a liquidation proceeding under the Act.

By the Commission.

March 25, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-7109 Filed 3-30-88; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 122

[T.D. 88-16]

User Fee Airports

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to reflect the establishment of nine "user fee" airports. User fee airports are those which, while not qualifying for designation as an international or landing rights airport, have been approved by the Commissioner of Customs to receive the services of Customs officers for the processing of aircraft entering the U.S. and their passengers and cargo. Inasmuch as the volume of business anticipated at these airports is insufficient to justify their designation as an international or landing rights airport, the availability of Customs services is not paid for out of the Customs appropriations from the general treasury of the U.S. Instead, the services of the Customs officers are provided on a fully reimbursable basis to be paid for by the user fee airports on behalf of the recipients of the services. The Secretary of the Treasury was authorized to create up to 20 user fee airports by the Trade and Tariff Act of 1984 and the Consolidated Omnibus Budget Reconciliation Act of 1985. This authority was delegated to the Commissioner of Customs.

EFFECTIVE DATE: March 31, 1988.

FOR FURTHER INFORMATION CONTACT: Joseph E. O'Gorman, Office of Inspection and Control (202-566-8157).

SUPPLEMENTARY INFORMATION:

Background

Part 122, Customs Regulations (19 CFR Part 122), sets forth regulations that relate to the entry and clearance of aircraft, and the transportation of persons and cargo by aircraft, and are applicable to all air commerce. As part of a general revision of the Customs Regulations, by T.D. 88-12, published in the **Federal Register** on March 22, 1988 (53 FR 9285), the air commerce regulations formerly in Part 6, Customs Regulations (19 CFR Part 6), were deleted and revised air commerce regulations were set forth in Part 122 in a new format.

Under section 1109(b), Federal Aviation Act of 1958, as amended (49 U.S.C. 1509(b)), the Secretary of the Treasury is authorized to designate places in the United States as ports of entry for civil aircraft arriving from any place outside of the United States, and for merchandise carried on the aircraft. These airports are referred to as "international airports," and the location and name of each are listed in § 122.13, Customs Regulations (19 CFR 122.13). In accordance with § 122.33, Customs Regulations (19 CFR 122.33), the first landing of every civil aircraft entering the United States from a foreign area must be at one of these international airports, unless the aircraft has been specifically exempted from this requirement or permission to land elsewhere has been granted. Customs officers are assigned to all international airports to accept entries of merchandise, collect duties and enforce the customs laws and regulations.

Other than if making an emergency or forced landing, if a civil aircraft desires to land at an airport not designated by Customs as an international airport, the pilot may request permission to land at a specific airport and, if granted, Customs assigns personnel to that airport for the aircraft. The airport where the aircraft is permitted to land is called a "landing rights" airport (19 CFR 122.34).

Section 236 of Pub. L. 98-573 (the Trade and Tariff Act of 1984), which is set forth in 19 U.S.C. 58b, creates another option for civil aircraft desiring to land at an airport other than an international airport. A civil aircraft arriving from a place outside the United States may ask Customs for permission to land at an airport designated by the Secretary of the Treasury as a "user fee" airport. Section 236 grants the Secretary of the Treasury authority to make Customs services available and to charge a fee for the services at the airport located at Lebanon, New Hampshire, and at four other airports to be designated by the Secretary. Section 13032 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272), amended 19 U.S.C. 58b by increasing the number of airports that the Secretary has the authority to designate as user fee airports from four to twenty.

Pursuant to 19 U.S.C. 58b, as amended, an airport may be designated as a user fee airport if the Secretary

determines that the volume of Customs busness at the airport is insufficient to justify the availability of Customs services at the airport and the governor of the state in which the airport is located approves the designation. Generally, the type of airport that would seek designation as a "user fee" airport would be one in which a company, such as an air courier service, has a specialized interest in regularly landing cargo.

The fees which are to be charged at user fee airports, according to the statute, shall be paid by each person using the Customs services at the airport and shall be in the amount equal to the expenses incurred by the Secretary of the Treasury in providing the Customs services which are rendered to such person at such airport, including the salary and expenses of those employed by the Secretary to provide the Customs services. To implement this provision, generally, the airport seeking designation as a user fee airport or that airport's authority agrees to pay Customs a flat fee annually and the users of the airport are to reimburse that airport/airport authority. The airport/airport authority agrees to set and periodically review its charges to ensure that they are in accord with the airport's expenses.

Pursuant to 19 U.S.C. 58b, as amended, a person who fails to pay any fee charged for using a user fee airport shall be guilty of a misdemeanor and, if convicted, shall pay a fine that does not exceed an amount equal to 200 percent of the fee.

Pursuant to Treasury Department Order No. 165, Revised (Treasury Decision 53564), all the rights, privileges, powers and duties vested in the Secretary of the Treasury by the Tariff Act of 1930, as amended, by the navigation laws, or by any other laws administered by Customs, are transferred to the Commissioner of Customs. Accordingly, the authority granted to the Secretary of the Treasury by virtue of Pub. L. 98–573 and Pub. L. 99–272 to designate user fee airports and determine appropriate fees, is delegated to the Commissioner of Customs.

Under this authority, Customs has determined that certain conditions must be met before an airport can be designated as a user fee airport. At least one full-time Customs officer must be requested and the airport must be responsible for providing Customs with satisfactory office space, equipment, and supplies, at no cost to the Federal Government. A flat fee of $73,350 has been set for the first year of service for full-time coverage by one Customs officer, with an estimated fee of $50,112 for subsequent years.

Eight airports, in addition to the one at Lebanon, New Hampshire, have already been designated as user fee airports. Accordingly, § 122.33, Customs Regulations (19 CFR 122.33), is being amended to state that the first landing of an aircraft entering the U.S. from a foreign area shall be at an international airport unless permission to land at a user fee airport designated in § 122.39, Customs Regulations (19 CFR 122.39), or elsewhere is granted. Further, § 122.1, Customs Regulations (19 CFR 122.1), is being amended to include a definition of the term "user fee airport" and a new § 122.39, Customs Regulations (19 CFR 122.39), is being added to list the airports that have been designated by Customs as user fee airports and to state that the landing procedures for user fee airports are the same procedures that exist now for landing rights airports. As other airports are designated, they will be added to the list by publication of a notice in the **Federal Register.**

The airports that have been designated as user fee airports and a phone number at which they can be contacted regarding service follows:

Airport	Contact
Natrona County International Airport, Casper WY.	Richard Stevens, (307) 472–6688.
Rickenbacker Airport, Columbus, OH.	N. Victor Goodman, (614) 461–9046.
Santa Teresa Airport, Dona Ana County, NM.	C.L. Crowder, (505) 589–2439.
Hector International Airport, Fargo, ND.	Joseph T. Parmer, (701) 241–1501.
Southwest Florida Regional Airport, Fort Myers, FL.	Gary LeTellier, (813) 768–1000.
Lebanon Municipal Airport, Lebanon, NH.	Robert Barnum, (603) 643–5454 Ext. 520.
Allentown-Bethlehem-Easton Airport, Lehigh Valley, PA.	Jack Yohe, (215) 264–2831
Midland International Airport, Midland, TX.	Victor White, (915) 563–1460.
Airborne Air Park, Wilmington, OH.	Joe Hete, (512) 382–5591.

Executive Order 12291

These amendments do not constitute a "major rule" as defined by section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act

It is certified that the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.),* are not applicable to these amendments because the rule will not have a significant economic impact on a substantial number of small entities. As the amendments reflect section 236 of the Trade and Tariff Act of 1984 (Pub. L. 98–573), and section 13032 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99–272), any economic impact would be attributable to the actions of Congress and not Customs.

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because these amendments merely implement the statutes and neither impose any additional burdens on, or take away any existing rights or privileges from, the public, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure are unnecessary, and for the same reasons, pursuant to 5 U.S.C. 553(d)(2), a delayed effective date is not required.

Drafting Information

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

List of Subjects in 19 CFR Part 122

Air carriers, Air transportation, Aircraft, Airports, Freight.

Amendments to the Regulations

Part 122, Customs Regulations (19 CFR Part 122), is amended as set forth below:

PART 122—AIR COMMERCE REGULATIONS

1. The authority citation for Part 122, Customs Regulations (19 CFR Part 122), is revised to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 58b, 66, 1433, 1436, 1459, 1590, 1624, 1644, 49 U.S.C. 1509.

2. Section 122.1 is amended by adding a new paragraph (m) to read as follows:

§ 122.1 General definitions.

* * * * *

(m) *User fee airport.* A "user fee airport" is an airport so designated by Customs and listed in § 122.39. Flights from a foreign area may be granted permission to land at a user fee airport rather than at an international airport or a landing rights airport.

3. Section 122.33 is revised to read as follows:

§ 122.33 Place of first landing.

The first landing of an aircraft entering the U.S. from a foreign area shall be at an international airport (see § 122.13, International airports), unless permission to land at a designated user fee airport listed in § 122.39 is granted. Permission to land at another place may also be granted under § 122.34 (Landing rights airport). Permission to land is not

required for an emergency or forced landing (see § 122.35).

4. Part 122 is amended by adding a new § 122.39 to read as follows:

§ 122.39 User fee airports.

(a) The procedures for landing at a user fee airport are the same procedures as those set forth in § 122.34 for landing rights airports.

(b) The following is a list of user fee airports designated by the Commissioner of Customs in accordance with 19 U.S.C. 58b. Information concerning service at any of these airports can be obtained by calling the airport or its authority directly.

Location	Name
Casper, Wyoming	Natrona County International Airport.
Columbus, Ohio	Rickenbacker Airport.
Dona Ana County, New Mexico.	Santa Teresa Airport.
Fargo, North Dakota	Hector International Airport.
Fort Myers, Florida	Southwest Florida Regional Airport.
Lebanon, New Hampshire.	Lebanon Municipal Airport.
Lehigh Valley, Pennsylvania.	Allentown-Bethlehem-Easton Airport.
Midland, Texas	Midland International Airport.
Wilmington, Ohio	Airborne Air Park.

Michael H. Lane,

Acting Commissioner of Customs.

Approved December 15, 1987.

John P. Simpson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 88-7108 Filed 3-30-88; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD1 88-007]

Safety Zone Regulations; New Haven and Bridgeport, CT, Port Jefferson, NY, and the Offshore Platforms at Riverhead and Northport, NY

AGENCY: Coast Guard, DOT.

ACTION: Emergency Rule.

SUMMARY: The Coast Guard is establishing safety zones within the harbors of Port Jefferson, NY, New Haven, CT, and Bridgeport, CT, and the offshore platforms of Long Island Lighting Company at Northport, NY, and Northville Industries at Riverhead, NY. These zones are needed to protect all controlled vessels from safety hazards during a perioo when tug boat assistance is limited. The lack of tugboat assistance to commercial vessels presents increased dangers of vessel groundings and collisions. The purpose of establishing these safety zones is to prevent damage, destruction or loss of any vessel, bridge, or other structure on or in affected areas and to prevent environmental harm from such damage, destruction or loss.

EFFECTIVE DATES: This regulation becomes effective on 15 February 1988. It terminates 13 June 1988 unless terminated sooner by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: LT. H.C. Deens (203) 773-2464.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the pubic interest since immediate action is needed to respond to potential hazards to the controlled vessels involved.

Drafting Information

The drafters of this regulation are Lieutenant H. C. Deens, Project Officer, Captain of the Port, Long Island Sound and Commander M. A. Leone, Project Attorney, First Coast Guard District Legal Office.

Discussion of Regulation

The circumstances requiring this regulation result from the hazards to the public, port, and environment presented when tug-boats normally involved in assisting the movement of large commercial vessels in the confines of harbors in Long Island Sound are not used. Some of these commercial vessels carry dangerous cargo. This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of Part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Security Measures, Vessels, Waterways.

Regulation

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

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5.

2. Section 165.T107 is revised to read as follows:

§ 165.T107 Safety Zones: Captain of the Port Long Island Sound zone.

(a) *Location.* The following areas have been declared safety zones:

(1) The Harbor of Bridgeport, CT, which includes the navigable waters of the United States north of Bridgeport Harbor channel buoys #2 and #3 and the land structures or shore area immediately adjacent to those waters.

(2) The Harbor of New Haven, CT, which includes the navigable waters of the United States north of New Haven Harbor channel buoys #1 and #2 and the land structures or shore area immediately adjacent to those waters.

(3) The Harbor of Port Jefferson, NY, which includes the navigable waters of the United States south of Port Jefferson Harbor channel buoys #1 and #2 and the land structures or shore area immediately adjacent to those waters.

(4) Those navigable waters of the United States within a five hundred yard radius of the offshore platform operated by Long Island Lighting Company at Northport, NY, at position 40-57.3 degrees Lat., 073-20.5 degrees Long.

(5) Those navigable waters of the United States within a five hundred yard radius of the offshore platform operated by Northville Industries at Riverhead, NY, at position 40-59.9 Lat., 072-38.8 Long.

(b) *Effective dates.* This regulation becomes effective on 15 February 1988. It terminates on 13 June 1988 unless terminated sooner by the Captain of the Port.

(c) *Regulations:*

(1) *Application:* (i) These directions apply only to non-public self propelled vessels both U.S. and foreign of 1600 gross tons and over, when not tugboat assisted within the safety zones established herein, except where noted in paragraphs (ii), (iii) and (iv) of this section.

(ii) All non-public self propelled vessels both U.S. and foreign of 1600 gross tons and over shall comply with the requirements of 2(c)(3)(v) of this section.

(iii) All tugs with barge(s) in tow or being pushed, must meet the requirements of paragraphs 2(c)(3) (xiv), (xv), (xvi), (xvii) and (xviii) of this section.

(iv) All other vessels must meet the requirements of paragraphs 2(c)(3) (xvii) and (xviii) of this section.

(2) *Definitions:* (i) *"Controlled vessels"* are all vessels to which these regulations are applicable.

(ii) *"Vessel"* means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

(3) *Directions Ordered:* (i) No controlled vessel may enter or depart a safety zone described in this rulemaking unless the owner, operator, agent, master or person in charge of the vessel gives the Captain of the Port Long Island Sound a six hour advance notice of the time of movement. Additionally, this notice shall advise the Captain of the Port Long Island Sound of deficiencies to the following items which may affect the safe transit of the vessel:

(A) Navigation equipment required by 33 CFR 164.35.

(B) Vessel conditions such as fire, flooding or unusual trim and stability.

(C) Vessel controllability and maneuverability.

(D) Any impairment to vessel or cargo.

(E) Vessel's propulsion equipment.

(ii) No controlled vessel carrying as cargo any of those certain dangerous cargoes as defined in 33 CFR 160.203, shall enter any of the safety zones described in this rulemaking except by special permission of the Captain of the Port Long Island Sound.

(iii) No controlled vessel, shall enter, transit, or depart the safety zones of New Haven or Bridgeport, CT, described in this rulemaking unless under the direction of a designated pilot from the New Haven-Bridgeport Pilots Association or Harbor Pilots Incorporated. No controlled vessel, shall enter, transit, or depart the safety zones of Port Jefferson, Riverhead, or Northport, NY, described in this rulemaking unless under the direction of a designated pilot from the Sound Pilots Incorporated or Interport Pilots Agency. With concurrence of the Captain of the Port Long Island Sound, special arrangements may be made to permit other properly licensed federal or state pilots to move controlled vessels provided such pilots have knowledge of the provisions of this rulemaking.

(iv) The aforesaid pilots shall schedule movements within safety zones to ensure maximum separation between vessels. The proximity of other shipping, the accessibility of the affected berth, and the availability of maneuvering area will be carefully weighed when scheduling a vessel's movement within a safety zone. No movement is authorized if there is any reasonable doubt as to the safety of the evolution.

(v) All controlled vessels will make the following reports to the Captain of the Port, Long Island Sound via channel 16 VHF-FM at the specified times:

(A) 30 minute report—prior to entry into a safety zone the vessel will report on-scene weather, vessel draft and intentions.

(B) Immediate report—upon docking or undocking in a safety zone or departure from a safety zone.

(vi) The pilot or vessel agent shall deliver a copy of this order to the master of a controlled vessel prior to its movement in a safety zone, advise him that these are effective emergency regulations, and specifically direct the attention of the master to the following requirements. The master of the vessel shall be on its bridge, ensure the following precautions have been taken, and inform the pilot of the status of these precautions:

(A) A ship's officer is at the anchor control station and in direct communication with the bridge of the vessel by telephone, radio, or by both visual means and amplified voice.

(B) The vessel's propulsion plant is in proper order and manned for maneuvering conditions.

(C) The steering machinery room will be manned and ready to assume control immediately should the vessels normal steering control be lost and will have immediate communications with the bridge.

(D) The vessel is in compliance with all other navigation safety regulations in 33 CFR 164.

(vii) All crossing, meeting and passing situations will be closely coordinated by the pilots to ensure that controlled vessels will not cross, meet, or pass in narrow channels or in areas where maneuvering room is restricted; that is, at entrances, channel turns, basin entrances, slips and bridges. Each of these situations will be treated as a "one-way traffic movement."

(viii) All pilots will, where practicable, maintain a minimum separation of 500 yards between vessels proceeding in the same direction.

(ix) Vessel traffic in the harbors shall be coordinated between the respective pilots and pilot stations.

(x) Due regard shall be given to underwater cable and pipeline crossings when utilizing vessel's anchor to assist in mooring operations.

(xi) The following regulations are effective during docking and undocking evolutions at all berths.

(A) Attention shall be given to other vessels moored close by and prevailing wind and sea conditions.

(B) Unless specifically prohibited by these regulations, vessel movements are at the discretion of the pilot.

(C) Embarked pilots will schedule and coordinate these evolutions to minimize vessel congestion and maximize safe maneuvering room.

(xii) In all cases, vessels should be berthed in such a manner as to facilitate an unassisted departure.

(xiii) When a vessel's anchor is set on the bottom to facilitate undocking, it shall be set so as not to obstruct other vessels.

(xiv) In all cases, good seamanship shall be practiced.

(xv) Emergency situations shall be immediately reported to the Captain of the Port including groundings, and collisions with any objects, fires, etc.

(xvi) Operators of all tug boats with barges in tow or pushed will make a report to the Captain of the Port on channel 16 VHF-FM at the specified times:

(A) Ten minute report—between five and ten minutes prior to entry into or undocking in a safety zone. The vessel will report name of tug, name of barge, position relative to the affected safety zone and intentions.

(B) Immediate report—upon docking in or departure from a safety zone.

(xvii) In an emergency any person may deviate from this rule to the extent necessary to avoid endangering persons, property or the environment.

(xviii) All vessels will immediately comply with any direction of the Captain of the Port.

(4) Specific directions for the Harbor of Bridgeport, CT, Harbor of New Haven, CT, and Port Jefferson, NY safety zones:

(i) Unless specifically authorized by the Captain of the Port Long Island Sound, no vessel shall enter the harbor with less than an anticipated under keel clearance of 5 ft. during the transit of the main channel.

(ii) Unless specifically authorized by the Captain of the Port Long Island Sound, no harbor movements shall be made when the wind speed exceeds 20 knots.

(iii) No harbor movements shall be made when the visibility is less than one-half mile unless specifically authorized by the Captain of the Port Long Island Sound. If visibility is so restricted as to making stopping within half of the limit of visibility impossible, that vessel will not be moved at all. Actual visibility determination will be made by the pilot aboard who is acting under the directions of the Captain of the Port.

(iv) Unless specifically authorized by the Captain of the Port, no movements of controlled vessels of 35,000 DWT or greater or with a draft greater than 35 ft.

are permitted in the safety zones of Bridgeport or New Haven.

(v) Unless specifically authorized by the Captain of the Port, no movements of controlled vessels of 30,000 DWT or greater or with a draft greater than 26 ft. are permitted in the safety zone of Port Jefferson, NY.

(vi) Vessel traffic within confined channels and basins shall only be permitted under the most favorable conditions of wind, visibility, vessel size and maneuverability, obstructions and other vessels, both moored and underway. In this regard:

(A) Ships shall be moored at the Wyatt Oil Co. Terminal in New Haven only during daylight slack water.

(B) Controlled vessel movements at United Illuminating Company, Bridgeport, CT must be specifically authorized by the Captain of the Port.

(5) Specific directions for the safety zones surrounding the offshore platforms at Northport, NY and Riverhead, NY:

(i) Unless specifically authorized by the Captain of the Port, no movements of controlled vessels over 60,000 DWT in the safety zones of Northport, NY and Riverhead, NY are permitted.

(6) Continuous liaison shall be maintained among the pilots and the Coast Guard Captain of the Port. The Captain of the Port shall monitor vessel dockings and undockings and may be assisted by other Coast Guard units for the purpose of keeping other vessels (pleasure craft and similar miscellaneous vessels) clear of the ships being docked and undocked. Escort may be provided in special cases. However, no assistance in any way resembling tugboat service or assistance will be provided.

Dated: March 14, 1988.

T.H. Collins,

Commander, U.S. Coast Guard, Captain of the Port Long Island Sound.

[FR Doc. 88-7091 Filed 3-30-88; 8:45 am]

BILLING CODE 4910-014-M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

36 CFR Part 902

Predisclosure Notification Procedures for Confidential Commercial Information Under the Freedom of Information Act

AGENCY: Pennsylvania Avenue Development Corporation.

ACTION: Final rule.

SUMMARY: This rule implements Executive Order 12600 which requires Federal agencies to establish predisclosure notification procedures governing compliance with Freedom of Information Act requests for release of records containing commercial or financial information that is privileged or confidential, disclosure of which can reasonably be expected to result in substantial competitive harm to the person who submitted the information. The procedures substantially conform to Executive Order 12600, 52 FR 23781 (25 June 1987).

EFFECTIVE DATE: March 30, 1988.

FOR FURTHER INFORMATION CONTACT: Talbot J. Nicholas II, Attorney, Pennsylvania Avenue Development Corporation, (202) 724-9088.

SUPPLEMENTARY INFORMATION: Federal agencies are required to implement procedures to carry out the guidelines of Executive Order 12600. The proposed rule is based substantially upon Department of Justice procedures, 28 CFR 16.7. The definition of confidential commercial information is incorporated in the proposed revision of § 902.54(a)(1). The Corporation considered the proposed rule on this subject published by the Department of Justice in the **Federal Register** at 53 FR 9452 (March 23, 1988). The Corporation received no comments to its own proposed rule published at 53 FR 6012 (Feb. 29, 1988).

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601, *et seq.*), I hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities. The final rule does not constitute a "major rule" under Executive Order 12291.

List of Subjects in 36 CFR Part 902

Freedom of information, Confidential business information.

For the reasons set out in the preamble, 36 CFR Part 902 is amended as follows:

PART 902—FREEDOM OF INFORMATION ACT

1. The authority citation for 36 CFR Part 902 is revised to read as follows:

Authority: 5 U.S.C. 552; 52 FR 10012-10019 (March 27, 1987); E.O. 12600, 52 FR 23781 (June 23, 1987).

2. Section 902.03 is amended by adding the following definition to read as follows:

§ 902.03 Definitions.

"Submitter" means any person or entity that provides or has provided information to the Corporation or about which the Corporation possess records subject to Exemption 4 of the Freedom of Information Act.

3. Section 902.54 is amended by revising paragraph (a)(1) and by adding paragraph (c) to read as follows:

§ 902.54 Trade secrets and commercial or financial information that is privileged or confidential.

* * * * *

(a) * * *

(1) Commercial or financial information not customarily released to the public, furnished and accepted in confidence or disclosure of which could reasonably be expected to cause substantial competitive harm, or both;

* * * * *

(c) (1) *In general.* For commercial or financial information furnished to the Corporation on or after March 30, 1988, the Corporation shall require the submitter to designate, at the time the information is furnished or within a reasonable time thereafter, any information the submitter considers confidential or privileged. Commercial or financial information provided to the Corporation shall not be disclosed pursuant to a Freedom of Information Act request except in accordance with this paragraph.

(2) *Notice to submitters.* The Corporation shall provide a submitter with prompt written notice of a request encompassing its commercial or financial information whenever required under paragraph (c)(3) of this section, and except as is provided in paragraph (c)(7) of this section. Such written notice shall either describe the exact nature of the information requested or provide copies of the records or portions thereof containing the information. Concurrently with its notice to a submitter, the Corporation shall inform a requestor in writing that the submitter is afforded a reasonable period within which to object to disclosure and that the 10 workday initial determination period provided for in 36 CFR 902.60 may therefore be extended.

(3) *When notice is required.* (i) For information submitted to the Corporation prior to March 30, 1988, the Corporation shall provide a submitter with notice of a request whenever:

(A) The information is less than ten years old;

(B) the information is subject to prior express commitment of confidentiality given by the Corporation to the submitter; or

(C) the Corporation has reason to believe that disclosure of the information may result in substantial competitive harm to the submitter.

(ii) For information submitted to the Corporation on or after March 30, 1988, the Corporation shall provide a submitter with notice of a request whenever:

(A) The submitter has in good faith designated the information as confidential, or

(B) the Corporation has reason to believe that disclosure of the information may result in substantial competitive harm to the submitter. Notice of a request for information falling within the former category shall be required for a period of not more than ten years after the date of submission unless the submitter requests, and provides acceptable justification for, a specific notice period of greater duration. The submitter's claim of confidentiality should be supported by a statement or certification by an officer or authorized representative that the information in question is in fact confidential and has not been disclosed to the public.

(4) *Opportunity to object to disclosure.* Through the notice described in paragraph (c)(2) of this section, the Corporation shall afford a submitter a reasonable period within which to provide the Corporation with a detailed statement of any objection to disclosure. Such statement shall specify all grounds for withholding any of the information under any exemption of the Freedom of Information Act and, in the case of Exemption 4, shall demonstrate why the information is contended to be privileged or confidential. Information provided by a submitter pursuant to this paragraph may itself be subject to disclosure under the Freedom of Information Act.

(5) *Notice of intent to disclose.* The Corporation shall consider carefully a submitter's objections and specific grounds for nondisclosure prior to determining whether to disclose information. Whenever the Corporation decides to disclose information over the objection of a submitter, the Corporation shall forward to the submitter a written notice which shall include:

(i) A statement of the reasons for which the submitter's disclosure objections were not sustained;

(ii) A description of the information to be disclosed; and

(iii) A specified disclosure date.

Such notice of intent to disclose shall be forwarded a reasonable number of days, as circumstances permit, prior to the specified date upon which disclosure is intended. A copy of such disclosure notice shall be forwarded to the requester at the same time.

(6) *Notice of lawsuit.* Whenever a requester brings suit seeking to compel disclosure of information covered by paragraph (c) of this section, the Corporation shall promptly notify the submitter.

(7) *Exceptions to notice requirements.* The notice requirements of this section shall not apply if:

(i) The Corporation determines that the information should not be disclosed;

(ii) The information lawfully has been published or otherwise made available to the public;

(iii) Disclosure of the information is required by law (other than 5 U.S.C. 552); or

(iv) The designation made by the submitter in accordance with paragraphs (c)(1) and (c)(3)(ii) of this section appears obviously frivolous; except that, in such case, the Corporation shall provide the submitter with written notice of any final decision to disclose information within a reasonable number of days prior to a specified disclosure date.

M.J. Brodie,

Executive Director.

Date: March 28, 1988.

[FR Doc. 88-7089 Filed 3-30-88; 8:45 am]

BILLING CODE 7630-01-M

VETERANS ADMINISTRATION

38 CFR Part 1

Fees Charged When Responding to Requests for Records; Release of Records and Other Information Customarily Furnished the Public

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration (VA) is amending its regulations to change the fees that the VA can assess for responding to requests for records, and the procedures for determining the fees that can be charged. In addition, the regulation that requires the VA to process all requests for records under the Freedom of Information Act (FOIA), other than those requests made under other specific disclosure statutes, is being clarified to allow the VA more flexibility in releasing records or information outside the Agency.

EFFECTIVE DATE: May 2, 1988.

FOR FURTHER INFORMATION CONTACT: Marjorie M. Leandri, Chief, Records Management Division, Paperwork Management and Regulations Service (733), Office of Information Management and Statistics, (202) 233-3648.

SUPPLEMENTARY INFORMATION: On pages 38474 through 38479 of the **Federal Register** of October 16, 1987, the VA published a notice of proposed rulemaking. Interested persons were given 30 days to comment on the proposed rule. The VA received one comment from the Reporters Committee for Freedom of the Press (from here on referred to as the Committee). The Committee addressed four paragraphs in the proposed regulation, § 1.555, "Fees." The VA has carefully reviewed the comments discussed below according to specific paragraphs of the proposed regulations.

1. Section 1.555(a) *Definition of terms.* The Committee asked the VA to eliminate its definition of representatives of the news media or to elect a new one. The Committee believes that the definition proposed by the VA will require the Agency to determine what is "news" in deciding whether a requester should be categorized as a "representative of the news media." The VA is required by the Freedom of Information Reform Act of 1986 to conform its fee schedule to the OMB Guidelines which include the definition of "representatives of the news media." Contrary to the Committee's statement that the OMB definition was not reviewed by the public, the definition in the OMB Guidelines was made final after a period of public notice and comment during which concerns similar to those expressed by the Committee were considered. (See OMB Analysis of Comments on Definitions, 52 FR 10014-10015 and OMB Fee Guidelines, sec. 6j., 52 FR 10018, March 27, 1987.) The VA firmly believes that the OMB definition of "representatives of the news media" properly implements the statutory terms used in the Freedom of Information Reform Act of 1986. For these reasons, the VA declines to change the definition of "representatives of the news media."

2. Section 1.555(f) *Waiving or reducing fees.* The proposed regulation incorporates the six factors which the Department of Justice (DOJ) recommended be considered in determining whether fees should be waived or reduced. The Committee recommends that the VA delete these six factors. The Committee gives two reasons for this recommendation. First, the Committee states that the proposed regulation violates the Paperwork Reduction Act because the VA must obtain additional information from requesters in order to evaluate their waiver requests. In response to a similar comment on their proposed fee regulations, the DOJ wrote that the requirement that such information be submitted in support of a fee waiver request is not affected by the Paperwork

Reduction Act of 1980, 44 U.S.C. 3501, *et seq.* The Office of Information and Regulatory Affairs of the Office of Management and Budget, which holds responsibility for the Paperwork Reduction Act's implementation, has determined that FOIA fee regulation requirements that requesters submit information in support of their fee waiver and fee limitation claims are not "information collection requests" within the meaning of that Act so long as agencies do not specify the content of such requests. See also 5 CFR 1320.7(c) (1987) and the Department of Justice Analysis of Comments Received, paragraph 5, Waiver or reduction of fees (52 FR 33231, September 2, 1987).

Second, the Committee believes that by repeating DOJ's six factors in its regulations, the VA would not consider the "legitimacy of the public's interest in monitoring its activities as a criterion for granting a public interest fee waiver." While the DOJ criteria for determining public interest do not specifically identify "monitoring" of agency activities, three of the factors clearly encompass this type of activity. These three factors are: (1) The subject of the request; whether the subject of the requested records concerns the operations or activities of the government; (2) the information value of the information to be disclosed; whether the disclosure is likely to contribute to an understanding of government operations or activities; and (3) the significance of the contribution to public understanding of government operations or activities. Moreover, the statutory standard governing the waiver or reduction of FOIA fees is phrased largely in general evaluative terms. It is essential that the Agency set forth the factors to be used in deciding whether to grant a fee waiver or reduction. The factors set forth by DOJ are taken directly from the statute's plain language, and the VA finds they form a useful framework for evaluating requests for fee waivers or reductions. For these reasons, the six factors are being retained in the VA's regulations.

3. Section 1.555(f)(3)(ii) *Waiving or reducing fees.* Paragraph (3) of § 1.555(f) addresses the factors that will be considered in determining whether disclosure of information is primarily in the commercial interest of the requester. The Committee requests that the VA "make clear that news media who meet the so-called public interest tests will not fail the commercial tests applied to fee waivers." The Committee supports this request by citing that the DOJ guidance "states unambiguously that where a news media requester has satisfied the 'public interest' standard necessary for waiver, that will be the interest primarily served by disclosure to that requester." The DOJ Office of Legal Policy memorandum, "New FOIA Fee Waiver Policy Guidance," dated April 2, 1987, containing the six recommended factors to be considered when determining fee waivers, has been reviewed again. In comparing the magnitude of the public interest with the requester's commercial interest in disclosure, the DOJ states "the traditional process of news gathering and dissemination by established news media or organizations, as a rule, should not be considered to be 'primarily' in their commercial interest." See FOIA Update, Vol. VIII, No. 1, at 10 (1987). The VA agrees that in most cases, news media requests will satisfy the standards necessary for fee waiver; however, these determinations should be made on a case-by-case basis, rather than being pre-determined by regulation. It is essential that VA personnel have some discretion in order to correctly apply the statutory standards.

4. Section 1.555(g)(4) *Advance payments.* The Committee comments that the proposed regulation requiring advance payment of fees "interferes with the agency's prompt provision of information and with the media's timely dissemination of information." The Committee asks that the requirement for advance payment be abandoned. Both the FOIA Reform Act and the OMB Guidelines state that agencies *may not* require a requester to make an advance payment unless the charges "are likely to exceed $250," or a requester "has previously failed to pay a fee charged in a timely fashion." Thus the FOIA Reform Act and OMB Guidelines permit agencies to require advance payments, but they do so only in one of the above specified circumstances. The final VA regulation is written in a manner that provides some discretion in determining whether to require advance payments, but only in those circumstances. This wording ensures that VA regulations are consistent with the provisions of both the FOIA Reform Act and OMB guidelines.

With the change explained in paragraph number 4 above, and editorial changes, the VA adopts the proposed rules as final.

The Administrator has certified that these final regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that these changes simply implement, and make VA regulations consistent with, the requirements of Pub. L. 99–570; they impose no new administrative or paperwork burdens, independent of the requirements of the law. They will have no significant direct impact on small entities (i.e., small businesses, small private and nonprofit organizations, and small governmental jurisdictions).

In accordance with Executive Order 12291, Federal Regulation, the VA has determined that these final regulations are non-major for the following reasons:

(1) They will not have an annual effect on the economy of $100 million or more.

(2) They will not cause a major increase in costs or prices.

(3) They will not have significant adverse effects on compensation, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

There are no Catalog of Federal Domestic Assistance numbers involved.

List of Subjects in 38 CFR Part 1

Administrative practice and procedures, Claims, Employment, Government employees, Government property, Freedom of Information Act, Privacy.

Approved: February 26, 1988.

Thomas K. Turnage,

Administrator.

38 CFR Part 1, *General*, is amended as follows:

PART 1—[AMENDED]

1. In § 1.526, paragraph (e)(3) is removed; paragraph (e)(4) is redesignated as paragraph (e)(3); and paragraphs (b) and (i) are revised and an authority citation is added to paragraph (i) to read as follows:

§ 1.526 Copies of records and papers.

* * * * *

(b) The types of services provided by the Veterans' Administration for which fees will be charged are identified in § 1.526(i) of this section.

* * * * *

(i) *Fees to be charged.*

(1) *Schedule of fees:*

Activity	Fees
(i) Duplication of document by any type of reproduction process to produce plain one-sided paper copies of a standard size (8½" × 11"; 8½" × 14"; 11" × 14").	$0.15 per page after first 100 one-sided pages.
(ii) Duplication of non-paper records, such as microforms, audiovisual materials (motion pictures, slides, laser optical disks, video tapes, audiotapes, etc.) computer tapes and disks, diskettes for personal computers, and any other automated media output.	Actual direct cost to the Agency as defined in § 1.555(a)(2) of this part to the extent that it pertains to the cost of duplication.
(iii) Duplication of documents by any type of reproduction process not covered by paragraphs (i)(1) (i) and (ii) of this section to produce a copy in a form reasonably usable by a requester.	Actual direct cost to the Agency as defined in § 1.555(a)(2) of this part to the extent that it pertains to the cost of duplication.
(iv) Providing special information, statistics, reports, drawings, specifications, lists of names and addresses (either in paper or machine readable form), computer or other machine readable output.	Actual cost to the Agency including computer and manual search costs, copying costs, labor, and material and overhead expenses.
(v) Attestation under the seal of the Agency	$3.00 per document so certified.
(vi) Providing abstracts or copies of medical and dental records to insurance companies for other than litigation purposes.	$10.00 per request.
(vii) Providing files under court subpoena	Actual direct cost to the Agency.

(NOTE.—If the VA regularly contracts for duplicating services related to providing the requested records, such as the duplication of microfilm or architect's plans and drawings, the contractor fees may be included in the actual direct cost to the Agency)

(2) *Benefit records.* When VA benefit records are requested by a VA beneficiary or applicant for VA benefits, the duplication fee for one complete set of such records will be waived.

(Authority: 38 U.S.C. 3302(b))

* * * * *

2. Section 1.553 is revised and an authority citation is added to read as follows:

§ 1.553 Public access to other reasonably described records.

(a) Except for requests for records which are processed under §§ 1.551 and 1.552 of this part, unless otherwise provided for in title 38, Code of Federal Regulations, all requests for records shall be processed under paragraph (b) of this section, as well as under any other VA law or regulation governing access to or confidentiality of records or information. Records or information customarily furnished to the public in the regular course of the performance of official duties may be furnished to the public without reference to paragraph (b) of this section. To the extent permitted by other laws and regulations, the VA will also consider making available records which it is permitted to withhold under the FOIA if it determines that such disclosure could be in the public interest.

(b) Reasonably described records in VA custody, or copies thereof, other than records made available to the public under provisions of §§ 1.551 and 1.552 of this part, or unless otherwise provided for in title 38, Code of Federal Regulations, requested in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, will be made promptly available, except as provided in § 1.554 of this part, to any person upon request. Such request must be in writing, over the signature of the requester and must contain a reasonable description of the record desired so that it may be located with relative ease. The request should be made to the office concerned (having jurisdiction of the record desired) or, if not known, to the Director or Veterans Services Officer in the nearest VA regional office; the Director, or Chief, Medical Administration Service, or other responsible official of the VA medical facility where most recently treated; or to the Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, DC 20420. Personal contacts should normally be made during the regular duty hours of the office concerned, which are 8 a.m. to 4:30 p.m. Monday through Friday for VA Central Office and most field stations.

(Authority: 5 U.S.C. 552(a)(3))

3. Section 1.555 is revised and an authority citation is added to read as follows:

§ 1.555 Fees.

(a) *Definitions of terms.* For the purpose of this section, the following definitions apply:

(1) *"Commercial use request"* means a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade or profit interests of the requester or the person on whose behalf the request is made. To determine whether a request properly belongs in this category, consideration must be given to the use to which a requester will put the documents requested. Where the use of the records sought is not clear in the request or where there is reasonable cause to doubt the use to which the requester will put the records sought, additional information may be sought from the requester before assigning the request to a specific category.

(2) *"Direct costs"* means those expenditures which the VA actually incurs in searching for and duplicating (and in the case of commercial use requests, reviewing) documents to respond to a Freedom of Information Act (FOIA) request. Direct costs include, for example, the salary of the employee performing work, i.e., the basic rate of pay for the employee, plus 16 percent of that rate to cover benefits, and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of space, and heating or lighting of the facility in which the records are stored.

(3) *"Duplication"* means the process of making a copy of a document necessary to respond to a FOIA request. Such copies can take the form of paper copy, microform, audiovisual materials or machine readable documentation (e.g., magnetic tape or disk), among others. The copy provided must be in a form that is reasonably usable by requesters.

(4) *"Educational institution"* means a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research. To determine whether a request properly belongs in this category, the request must be evaluated to ensure that it is apparent from the nature of the request that it serves a scholarly research goal of the institution, rather than an individual goal of the requester or a commercial goal of the institution.

(5) *"Non-commercial scientific institution"* means an institution that is not operated on a "commercial" basis (as that term is referenced under "Commercial use request" of this paragraph) and which is operated solely for the purpose of conducting scientific research, the results of which are not

intended to promote any particular product or industry.

(6) *"Representative of the news media"* means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. These examples are not intended to be all inclusive. As traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunications services), such alternative media will be included in this category. "Freelance" journalists may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. A publication contract would be the clearest proof, but the requester's past publication history can be considered also. In any case, freelancers who do not qualify for inclusion in the "representative of the news media" category may seek a reduction or waiver of fees under paragraph (f) of this section.

(7) *"Review"* means the process of examining documents located in response to a "commercial use request" (see definition of commercial use request in this section) to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure in response to a "commercial use request," e.g., doing all that is necessary to excise them and otherwise prepare them for release. The term "review" does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(8) *"Search"* means all the time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. Searches may be done manually or by computer using existing programs. The most efficient and least expensive manner of searching for material will be used to minimize costs to the VA and the requester. For example, line-by-line searches will not be conducted when duplicating an entire document is the least expensive and quicker method of complying with a request. The term "search" does not cover the time spent to review documents to determine whether all or portions thereof can be withheld under one of the nine categories of exemptions identified in § 1.554 of this part.

(b) *Fees to be charged.* (1) Except as provided in paragraphs (c), (d), (f) and (g) of this section, the Veterans Administration will charge fees that recoup the full allowable direct costs for responding to each request from the public. Such fees will be charged in accordance with the schedule of fees in paragraph (e) of this section, and other requirements or restrictions in this regulation. The most efficient and least costly methods will be used to comply with requests for documents made under the FOIA.

(2) If it is estimated that charges for duplication determined by using the fee schedule in § 1.555(e) of this part are likely to exceed $25, the requester will be notified of the estimated amount of fees, unless the requester has indicated in advance his or her willingness to pay fees as high as those anticipated. Such notice will offer the requester the opportunity to confer with Agency personnel with the object of reformulating the request to meet his or her needs at a lower cost.

(3) Each department and staff office upon approval of the Administrator is authorized to contract with private sector services to locate, reproduce, and disseminate records in response to FOIA requests when that is the most efficient and least costly method. If a contractor is used, the ultimate cost to the requester can be no greater than it would if the department, staff office, or field station performed the task, itself. In no case may a department, staff office, or field station contract out responsibilities which the FOIA provides that they alone may discharge, such as determining the applicability of an exemption, or determining whether to waive or reduce fees.

(4) When documents that would be responsive to a request are maintained for distribution by agencies operating statutory-based fee schedule programs, in which the agency is required to set the level of fees for particular types of records, such as the National Technical Information Service or the Government Printing Office, the requester of such documents will be informed of the steps necessary to obtain records from those sources, rather than from the VA.

(c) *Restrictions on assessing fees.* With the exception of commercial use requests no charges will be assessed for the first 100 pages of duplication and the first two hours of search time. Moreover, no fees are to be charged any requester, including commercial use requesters, if the cost of collecting the fee is equal to or greater than the fee itself. These provisions work together so that, except for commercial use requests, fees will not be assessed until the free search and duplication have been provided. For example, if a request takes two hours and ten minutes of search time and results in 105 reproduced pages of documents, fees can be charged for only 10 minutes of search time and for only five pages of reproduction. If this cost were equal to or less than the cost to the VA of billing the requester and processing the fee collected, no charges would be assessed. (NOTE: The cost of collecting fees are VA's administrative costs of receiving and recording a requester's remittance, and processing the fee for deposit in the Treasury Department's special account. The cost is determined to be negligible. The per-transaction costs to the Treasury to handle such remittances is negligible and will not be considered in the Agency's determination.)

(1) For purposes of the restriction on assessing fees, the word "pages" refers to one-sided paper copies of the standard sizes 8½" × 11" or 8½" × 14" or 11 " × 14". Accordingly, requesters will not be entitled to 100 microfiche or 100 computer disks free. One microfiche containing the equivalent of 100 pages or 100 pages of computer printout might meet the terms of the restriction.

(2) The term "search time" in this context is based on manual searches. To calculate the "computer search time" for the purpose of applying the two-hour search restriction, the hourly cost of operating the computer's central processing unit will be combined with the operator's hourly salary, plus 16 percent of the salary. When the cost of the search (including the operator time and the cost of the computer to process a request) equals the equivalent dollar amount of two hours of the salary of the person performing the search, i.e., the operator, charges will begin to be assessed for a computer search.

(d) *Categories of requesters and fees to be charged each category.* There are four categories of FOIA requesters: Commercial use requesters; educational and non-commercial scientific institutional requesters; requesters who are representatives of news media; and all other requesters. Specific levels of fees will be charged for each of these categories as follows:

(1) *Commercial use requesters.* When a request for documents for commercial use is received, the full direct costs of

searching for, reviewing for release, and duplicating the records sought will be charged to the requester. Commercial use requesters are not entitled to two hours of free search time nor 100 free pages of reproduced documents. Moreover, the commercial use requester will be charged the cost of searching for and reviewing records even if there is ultimately no disclosure of records. The requester must reasonably describe the records sought.

(2) *Educational and non-commercial scientific institution requesters.* These requesters will be charged only for the cost of reproduction, excluding charges for the first 100 pages. In order to be considered a member of this category, a requester must show that the request is being made as authorized by and under the auspices of a qualifying institution and that the records are not sought for a commercial use. If the request is from an educational institution, the requester must show that the records sought are in furtherance of scholarly research. If the request is from a non-commercial scientific institution, the requester has to show that the records are sought in furtherance of scientific research. Information necessary to support a claim of being categorized as an educational or non-commercial scientific institution requester will be provided by the requester, and the requester must reasonably describe the records sought.

(3) *Representatives of news media.* These requesters will be charged for the cost of reproduction, only, excluding charges for the first 100 pages. To be included in this category, a requester must fall within the definition of a representative of the news media specified in paragraph (a)(vi) of this section, and the request must not be made for commercial use. A request for records supporting the news dissemination function of the requester will not be considered to be a request that is for commercial use. Requesters must reasonably describe the records sought.

(4) *All other requesters.* Any requester that does not fit into any of the categories in this section will be charged fees which recover the full reasonable direct cost of searching for and reproducing records that are responsive to the request, except that the first 100 pages of reproduction and the first two hours of search time will be furnished without charge. In addition, under certain circumstances specified in paragraph (f) of this section, fees will be waived or reduced at the discretion of field station heads, their designee, or responsible Central Office officials. Requests from VA beneficiaries, applicants for VA benefits, or other individuals for records retrievable by their name or other personal identifier will initially be processed under 38 U.S.C. 3301 and 5 U.S.C. 552a and will be assessed fees in accordance with the applicable fee provisions of §§ 1.526(i) or 1.577(f) of this part. To the extent that records are not disclosable under these provisions, the disclosure of such records will be evaluated under §§ 1.550 through 1.559 of this part, and fees will be assessed under paragraph (e) of this section. Requesters must reasonably describe the records sought.

(e) *Schedule of fees:*

Activity	Fees
(1) Duplication of documents by any type of reproduction process to produce plain one-sided paper copies of a standard size (8½" × 11"; 8½" × 14"; 11" × 14").	$0.15 per page.
(2) Duplication of non-paper records, such as microforms, audiovisual materials (motion pictures, slides, laser optical disks, video tapes, audiotapes, etc.) computer tapes and disks, diskettes for personal computers, and any other automated media output.	Actual direct cost to the Agency. (See paragraph (a)(2) of this section and, if costs are likely to exceed $25.00, paragraph (b)(2) of this section.
(3) Duplication of documents by any type of reproduction process not covered by paragraphs (e)(1) and (2) of this section to produce a copy in a form reasonably usable by the requester	Actual direct cost to the Agency. (See paragraph (a)(2) of this section and, if costs are likely to exceed $25.00, paragraph (b)(2) of this section.
(4) Document search by manual (non-automated) methods	Basic hourly salary rate of the employee(s) performing the search, plus 16 percent. (If costs are likely to exceed $25.00, see paragraph (g)(2) of this section.)
(NOTE.—If a department, staff office or field station uses exclusively a single class of personnel, e.g., all administrative/clerical or all professional/executive, an average rate for the range of grades involved may be used).	
(5) Document search using automated methods, such as by computer	Actual direct cost to perform search. (See paragraph (c)(2) of this section, and, if costs are likely to exceed $25.00, see paragraph (g)(2) of this section.)
(6) Document review (use only for commercial use requesters)	Basic hourly salary rate of employee(s) performing initial review to determine whether to release document(s) or portions of records, plus 16 percent.
(NOTE.—Charge for document reviews covers only the time spent reviewing the document(s) at the initial administrative level to determine applicability of a specific FOIA exemption to a particular record or portion of a record. It does not cover any review incurred at the administrative appeal level once the initial exemptions are applied. However, records or portions of records withheld in full under an exemption which is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. The cost for such a subsequent review may be properly assessed).	
(7) Other charges: Certifying that records are true copies; Sending records by special methods such as express mail	Where applicable, assess under provisions of §§ 1.526(i) and (j) of this part, otherwise actual direct cost of service performed.

(f) *Waiving or reducing fees.* (1) Fees for records and services provided in response to a FOIA request will be waived or reduced when it is determined by responsible Central Office officials or field station heads or their designee that furnishing the document(s) is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(2) The following factors will be considered in sequence in determining whether disclosure of information is in the public interest because it is likely to contribute significantly to the public understanding of the operations or activities of the government:

(i) The subject of the request: Whether the subject of the requested records concerns the operations or activities of the government;

(ii) The informative value of the information to be disclosed: Whether the disclosure is likely to contribute to an understanding of government operations or activities;

(iii) The contribution to an understanding of the subject by the public likely to result from disclosure: Whether disclosure of the requested information will contribute to public understanding; and

(iv) The significance of the contribution to public understanding: Whether the disclosure is likely to contribute significantly to public understanding of government operations or activities.

(3) The following factors will be considered in sequence in determining whether disclosure of information is primarily in the commercial interest of the requester:

(i) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so

(ii) The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

(4) An appeal from an adverse fee waiver or reduction determination will be processed in the same manner as described in § 1.557 of this part.

(g) *Other administrative considerations to improve assessment and collection of fees.*—(1) *Charging interest—notice and rate.* The Veterans Administration may charge interest to those requesters who fail to timely pay fees assessed in accordance with these regulations. Determination to charge interest will be made by the responsible Central Office official or field station head or designee. Interest will be assessed on the unpaid bill beginning on the 31st day following the day on which the original building was sent. Interest will be at the rate prescribed in section 3717 of Title 31 United States Code and will accrue from the date of the billing. Accounting procedures ensure that a requester who has remitted the full amount within the time period is properly credited with the payment. The fact that the fee has been received by the VA, even if not processed, will suffice to stay the accrual of interest.

(2) *Charges for unsuccessful search.* When it is determined by the responsible Central Office official or field station head or designee, charges for searching may be assessed, even if records are not located to satisfy a request or if records located are determined to be exempt from disclosure. If it is determined that search charges are likely to exceed $25, the requester will be notified of the estimated amount of fees, unless the requester has indicated in advance a willingness to pay fees as high as those anticipated. Such notice will offer the requester the opportunity to confer with agency personnel with the object of reformulating the request to meet his or her needs at a lower cost.

(3) *Aggregating requests.* When the responsible Central Office official or field station head or designee reasonably believes that a requester or, on rare occasions, a group of requesters acting in concert, is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the responsible Central Office official, or field station head or designee may aggregate (combine) any such requests and charge accordingly. One element to consider in determining whether a belief would be reasonable is the time period in which the requests occurred. For example, it is reasonable to presume that multiple requests within a 30-day time period that seek portion(s) of the same document(s) is an attempt to avoid payment of charges. For requests made over a longer period, however, such presumption becomes harder to sustain. In each case, there must be a solid basis for determining that aggregation is warranted. Caution will be exercised before aggregating requests from more than one requester. There must be a concrete basis on which to conclude that the requesters are acting in concert and are acting specifically to avoid payment. In no case will multiple requests on unrelated subjects from one requester be aggregated.

(4) *Advance payments.* The Veterans Administration may not require a requester to make an advance payment, i.e., payment before work is commenced or continued on a request, unless:

(i) The allowable charges that a requester may be required to pay are likely to exceed $250. Then, the Veterans Administration should either notify the requester of the likely cost and obtain satisfactory assurance of full payment, or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment; or

(ii) A requester has previously failed to pay a fee charged in a timely fashion (i.e., within 30 days of the date of the billing). Then, the Veterans Administration may require the requester to pay the full amount owed, plus any applicable interest as provided in paragraph (g)(1) of this section, or to demonstrate that he or she has, in fact, paid the fee, and to make an advance payment of the estimated fee before the Agency begins to process a new request or a pending request from that requester.

(iii) If a requester is required to make advance payments, as described in this section, the time limits prescribed in § 1.553a of this part, for responding to initial requests and appeals from initial denials, will begin only after the Agency has received the advance fee payments.

(5) *Debt collection.* In the event of non-payment of billed charges for disclosure of records, the procedures authorized by the Debt Collection Act of 1982 (Pub. L. 97-365) may be used. This may include disclosure to consumer reporting agencies and use of collection agencies.

(Authority: 5 U.S.C. 552(a)(4)(A))

4. In § 1.577, paragraph (f) is revised and paragraph (g) and an authority citation are added to read as follows:

§ 1.577 Access to records.

* * * * *

(f) Fees to be charged, if any, to any individual for making copies of his or her record shall not include the cost of any search for and review of the record, and will be as follows:

Activity	Fees
(1) Duplication of documents by any type of reproduction process to produce plain one-sided paper copies of a standard size (8½"×11"; 8½"×14"; 11"×14").	$0.15 per page after first 100 one-sided pages.
(2) Duplication of non-paper records, such as microforms, audiovisual materials (motion pictures, slides, laser optical disks, video tapes, audio tapes, etc.), computer tapes and disks, diskettes for personal computers, and any other automated media output.	Actual direct cost to the Agency as defined in § 1.555(a)(2) of this part to the extent that it pertains to the cost of duplication.
(3) Duplication of document by any type of reproduction process not covered by paragraphs (f)(1) or (2) of this section to produce a copy in a form reasonably usable by the requester.	Actual direct cost to the Agency as defined in § 1.555(a)(2) of this part to the extent that it pertains to the cost of duplication.

Note.—Fees for any activities other than duplication by any type of reproducing process will be assessed under the provisions of § 1.526(i) or (j) of this part of any other applicable law.)

(g) When VA benefit records, which are retrievable by name or individual identifier of a VA beneficiary or applicant for VA benefits, are requested by the individual to whom the record pertains, the duplication fee for one complete set of such records will be waived.

(Authority: 5 U.S.C. 552a(f)(5))

[FR Doc. 88-7080 Filed 3-30-88; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3357-6]

Approval and Promulgation of Implementation Plans; Oregon; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Correction.

SUMMARY: This document corrects a final rule relating to the Oregon State Implementation Plan which was published at 53 FR 1021, January 15, 1988. In FR Doc. 88-821, the table in § 52.1973 Attainment Dates for National Standards should be corrected.

EFFECTIVE DATE: February 29, 1988.

FOR FURTHER INFORMATION CONTACT: Laurie M. Kral, Program Advisor, Air Programs Branch, Region 10, Environmental Protection Agency, 1200 Sixth Avenue, AT-092, Seattle, Washington 98101, Telephone: (206) 442-0180. FTS: 399-0180.

SUPPLEMENTARY INFORMATION:

List of Subjects is 40 CFR Part 52

Air pollution control.

Dated: March 17, 1988.

Robie G. Russell,

Regional Administrator.

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

PART 52—[AMENDED]

Subpart MM—Oregon

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

Authority: 42 U.S.C. 7401-7642.

2. Section 52.1973 is amended by revising the table to read as follows:

§ 52.1973 Attainment dates for national standards.

* * * * *

Air quality control region and nonattainment area	Pollutant						
	TSP		SO_2		NO_2	CO	O_3
	1st [1]	2nd [2]	1st [1]	2nd [2]			
Portland Interstate AQCR:							
1. Portland-Vancouver (Oregon portion)	a	f	a	b	b	h	i
2. Salem	a	b	a	b	b	e	e
3. Eugene-Springfield AQMA	a	i	a	b	b	h	b
4. Remainder of AQCR	c	c	a	b	b	d	c
Southwest Oregon Intrastate AQCR:							
1. Medford-Ashland AQMA	j	k	a	b	b	i	e
2. Grants Pass AQMA	c	c	a	b	b	l	b
2. Remainder of AQCR	c	c	a	b	b	b	b
Northwest Oregon Intrastate AQCR	a	b	a	b	b	b	b
Central Oregon Intrastate AQCR	a	c	a	b	b	b	b
Eastern Oregon Intrastate AQCR	c	c	a	b	b	b	b

1. 1st—Primary.
2. 2nd—Secondary.
a. Air designated as having air quality levels presently below the primary standards or area is unclassifiable.
b. Area designated as having air quality levels presently below secondary standards or area is unclassifiable.
c. May, 1975.
d. May 31, 1976.
e. Dec. 31, 1982.
f. Dec. 31, 1986.
g. Reserved.
h. Dec. 31, 1985.
i. Dec. 31, 1987.
j. Dec. 31, 1984.
k. Dec. 31, 2000.
l. Dec. 31, 1990.

[FR Doc. 88-7062 Filed 3-30-88; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 228

[FRL-3357-5]

Ocean Dumping; Designation of Site

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

ACTION: Final rule.

SUMMARY: EPA today designates the alternative dredged material disposal site located offshore of Virginia Beach, Virginia as an approved ocean dumping site for the dumping of dredged material. The Dam Neck Ocean Disposal Site (DNODS) is located approximately 3 nautical miles (nm) due east of the Dam Neck/Virginia Beach Section of the Virginia coast and is approximately 7 nm south of the mouth of the Chesapeake Bay. This action is necessary to provide an accepatable ocean dumping site for the current and future disposal of this material. This final site designation is for an indefinite period of time, but the site is subject to continued site management and monitoring to insure that unacceptable adverse environmental impacts do not occur.

DATE: This designation shall become effective on March 31, 1988.

ADDRESSES: The file supporting this proposed designation is available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU) Room 2904 (rear), 401 M Street, SW., Washington, DC

EPA Region III, 841 Chestnut Bldg., Philadelphia, PA 19107.

FOR FURTHER INFORMATION CONTACT: William C. Muir, 215/597-2541.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq. ("the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On October 1, 1986, the Administrator delegated the authority to designate ocean dumping sites to the Regional Administrator of the Region in which the site is located. This proposed site designation is within Region III and is being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR Chapter 1, Subchapter H, § 228.4) state that ocean dumping sites will be designated by publication in Part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 et. seq.) and was last extended on August 19, 1985 (50 FR 33338). The list included this site which has been in use for approximately 20 years.

B. EIS Development

Section 102(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et. seq. ("NEPA") requires that Federal agencies prepare an Environmental Impact Statement (EIS) on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. The object of NEPA is to build into the Agency decision-making process careful consideration of all environmental aspects of proposed actions. While NEPA does not apply to EPA activities of this type, EPA has voluntarily committed to prepare EIS's in connection with ocean dumping site designations such as this. [See 39 FR 16186 (May 7, 1974).]

The Corps of Engineers prepared a draft and final supplement to the Final Environmental Impact Statement (EIS) entitled "Final Supplement 1 to the Final Environmental Impact Statement and Appendix: Dam Neck Ocean Disposal Site and Site Evaluation Study, Norfolk Harbor and Channels, Virginia, Deepening and Disposal." On April 3, 1981, the Final EIS for the Norfolk Harbor and Channels, Virginia, Deepening and Disposal was filed with EPA. A Draft Supplement to the Final EIS, which documents the use and proposed final designation of the expanded DNODS, was filed with EPA on December 14, 1984. The closing date for comments on the Draft EIS was January 28, 1985.

The Final Supplement was filed with EPA on June 7, 1985. A copy of these documents may be obtained from U.S. Army Engineer District, Norfolk, 803 Front Street, Norfolk, Virginia 23510-1096.

By letter of 19 February 1985, the State of North Carolina concurred with EPA's conclusion that this site designation, as proposed, would not affect coastal resources in North Carolina. The Virginia Council on the Environment was given opportunity to comment on the draft SFEIS and Site Designation Document. Since no comments were received, EPA assumed concurrence and consistency with Virginia's Coastal Zone Management plan.

The National Marine Fisheries Service (NMFS) has concurred with EPA's assessment that sea turtles are unlikely to be adversely affected by designation of the DNODS to receive materials meeting the ocean disposal criteria.

The action discussed in the FEIS is designation for continuing use of the ocean disposal site identified as DNODS for dredged material. The purpose of the designation is to provide an environmentally acceptable location for ocean disposal. The appropriateness for ocean disposal is determined on a case-by-case basis as part of the process of issuing permits for ocean disposal.

The Final Supplement to the EIS presented the information needed to evaluate the suitablility of ocean disposal areas for final designation and was based on a disposal site environmental study. The study and final designation process are being conducted in accordance with the Act, the Ocean Dumping Regulations, and other applicable Federal environmental legislation.

C. Site Designation

The Dam Neck Ocean Disposal Site is the primary disposal site for three Federal navigation channels: the Atlantic Ocean Channel, the Cape Henry Channel, and the Thimble Shoal Channel. These channels provide entrance to the ports of the Hampton Roads and Baltimore. Combined, these ports provide the largest export tonnage in the country. Maintenance of these ports for navigation is vital to the economy of the United States. Further, the channels provide entrance to the largest naval port in the world, the Norfolk Naval Shipyard, which is vital to national defense.

Boundary coordinates for the DNODS are as follows:

36° 51' 24.1" N., 75° 54' 41.4" W.;
36° 51' 24.1" N., 75° 53' 02.9" W.;
36° 50' 52.0" N., 75° 52' 49.0" W.;
36° 46' 27.4" N., 75° 51' 39.2" W.;
36° 46' 27.5" N., 75° 54' 19.0" W.;
36° 50' 05.0" N., 75° 54' 19.0" W.

On August 21, 1987, EPA proposed this final site designation in the **Federal Register** [52 FR 31636 (August 21, 1987)]. The preamble to this proposed rule presented the characteristics of the site in terms of the eleven specific factors identified in Section 228.5 of the Ocean Dumping Regulations which, taken together, constitute an assessment of the site's suitability as a repository for dredged material. That assessment concludes that this site is appropriate for final designation.

Three letters of comment were received on the proposed rule. Comments were received from the U.S. Army Corps of Engineers, the Hampton Roads Sanitation District, and the

National Marine Fisheries Service. The Corps of Engineers requested a slight modification of the boundary coordinates based upon their latest navigational survey. The boundary coordinates listed in this section are so modified. The National Marine Fisheries Service raised the issue of impacts to marine turtles which is addressed in Section "D", "Regulatory Requirements". The Hampton Roads Sanitation District presented concerns over sediment toxicity, monitoring, and the location of marker buoys designating the location of dumping. All three issues are addressed in Section "D"—"Regulatory Requirements".

If at any time disposal operations at the site cause unacceptable adverse impacts, further use of the site will be restricted or terminated as per 40 CFR Part 228.7–10.

D. Regulatory Requirements

Five general criteria are used in the selection and approval of ocean disposal sites for continuing use. Sites are selected so as to minimize interference with other marine activities, to keep any temporary perturbations from the dumping from causing impacts outside the disposal site, and to permit effective monitoring to detect any adverse impacts at an early stage. Where feasible, locations off the Continental Shelf are preferred. If at any time disposal operations at a site cause unacceptable adverse impacts, the use of that site will be terminated as soon as suitable alternate disposal sites can be designated. The general criteria are given in § 228.5 of the EPA Ocean Dumping Regulations, and § 228.6 lists 11 specific factors used in evaluating a proposed disposal site to assure that the general criteria are met.

The proposed site conforms to the five general criteria. However, there are no existing historically used sites beyond the edge of the Continental Shelf in this area. EPA has determined, based on the information presented in the FS–EIS that a site off the Continental Shelf is not feasible and that no environmental benefit would be obtained by selecting such a site instead of that proposed in this action. Further, historical use at the existing site has not resulted in substantial adverse effects to living resources of the ocean or to other uses of the marine environment.

The characteristics of the proposed site are reviewed below in terms of the 11 specific criteria for site selection.

1. *Geographical position, depth of water, bottom topography and distance from coast.* [40 CFR 228.6(a)(2).]

The boundary coordinates of the site are given above. The landward boundary of the Dam Neck Site is about 3 nm from the coastline and parallel to Virginia Beach, Virginia. Water depths in the area are generally between 9.5 and 15 meters and an area of 8 square nm. A small portion of the site is characterized by a disposal impression which is the result of the COE depositing dredged material. With the exception of this impression, the bottom near the DNODS has no significant features. Topography is typical of the inner Continental Shelf, with a smooth bottom and a gradual seaward slope.

2. *Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases.* [40 CFR 228.6(a)(2).]

The DNODS is situated on the near shore Continental Shelf, surrounded by productive marine waters usually associated with shallow coastal areas. The dominant factor influencing the biological makeup of the study area is its position adjacent to the mouth of the Chesapeake Bay. The Bay "plume" contributes nutrients and detrital materials, resulting in enhanced primary production compared to areas farther from the Bay mouth.

Breeding, spawning, nursery, and passage activities of commercially important finfish and shellfish occur on a seasonal basis in the vicinity of the dump site. However, the most extensive breeding, spawning, and nursery activities occur either in offshore waters or in the adjacent Chesapeake Bay estuarine waters that is offshore or inshore of the dredged material disposal site. In addition, the total area of the disposal site represents only a small portion of the total breeding, spawning, and nursery areas along the mid-Atlantic coast for these species. The disposal site is within passage areas for anadromous adult fish and larval finfish and shellfish migrating from the ocean to the Chesapeake Bay. However, these passage areas are not confined or geographically limited to areas coinciding with the DNODS. The intensity of passage activities varies seasonally with peaks in spring and early fall for most important finfish and shellfish species.

The most important shellfish species to the lower Chesapeake Bay and to the DNODS is the blue crab *Callinectes sapidus*. Studies by EPA, the COE and others identified in the FS EIS showed that during larvae development a significant fraction of the blue crab reside in the Chesapeake Bay plume, only a fraction of which includes the DNODS. Therefore, the potential impacts would be very small, especially since the crab larvae are primarily in the surface waters.

The DNODS supports a productive benthic faunal population which is typical of the mid-Atlantic inner Continental Shelf. However, no commercial quantities of any shellfish were identified in the DNODS. A small conch fishery (*Busycon* sp. and *Strombus* sp.) occur inshore of the site and the surf clam (*spisula solidissima*) and sea scallop (*Placopecten magillanicus*) are found offshore of the site. The impact of dumping on breeding, spawning, nursery, and passage activities is therefore likely to be minimal for the reasons stated above. In addition, due to the mobility of adult finfish, it is unlikely that dumping will have a significant impact on either anadromous or pelagic species. In general, increases in suspended sediment concentrations following dumping are localized and are not expected to cause adverse long-term impacts. Consequently, interference of suspended sediments on the respiratory structures of fish are minimal. Some entrainment of larval fish and crabs within the disposal plume may occur, causing a minor detrimental effect within the disposal site. However, the population will not be adversely affected.

Studies indicate the migration of thousands of the loggerhead and ridley turtles into the Chesapeake Bay. However, there is little evidence that a significant number of turtles would in fact traverse the dump site during the migratory April–June period. During EPA's surveys over a four-year period, no turtles were sighted nor were any recovered from extensive benthic trawls at the site. This may be due to the colder water, 8 to 10 °C at the dump/ site during the period of May through June as opposed to the near shore waters where temperatures reach 20 °C, the temperature at which the turtles begin to migrate. Further, in conjunction with EPA, the COE has developed a site management plan which segments the site, thereby, only a two-square mile area would be impacted at any time. In view of the above, any impacts to the sea turtles would be infrequent and localized and, therefore, not a significant threat especially given the mobility of the turtles and the short-term water column effects. The impact on benthic communities will be localized to an area which is only a small portion of the total bottom area over which the migrating turtles pass. The turtles, being opportunistic feeders, should have no difficulty in finding adequate adjacent food resources to sustain their winter migration. The jellyfish, which both the loggerhead and ridley forage on near the

Bay mouth, should in no way be adversely impacted by disposal at Dam Neck Disposal Site, 10 miles away.

3. *Location in relation to beaches and other amenity areas.* [40 CFR 228.6(a)(3)]

The DNODS is located offshore of Virginia Beach. The 3.3 nm of coastline between Rudee Inlet and 49th Street in Virginia Beach are highly developed ocean resort areas—the largest in Virginia. It includes an extensive tourist and resort trade. The dunes have been removed and developed. South of Rudee Inlet the shoreline is backed by sand dunes with residential development, a military installation and further south, a National Wildlife Refuge.

The DNODS is within 3 nm of the adjacent beach. Longshore, tidal, and storm generated currents may disperse the dredged materials dumped at the site. The center of the site is approximately 2 nm seaward of the active littoral drift zone with respect to the nearshore bottom profile. The mean annual current vectors for bottom circulation are toward shore along Virginia Beach. However, the vectors were of weak magnitude and the FS EIS predicted minimal material movement from the site by wave induced and tidal currents.

Sediment transport at the DNODS, while minimal, would become part of the littoral drift zone and incorporated into the natural beach process with minimal adverse environmental impacts. The majority of the sediments released would be expected to sink to the bottom and remain in place.

In addition, after 20 years of use, no apparent adverse impacts to beaches have been associated with the previous dredged material disposal at this site. Thus, use of the site should not adversely affect recreation, coastal development or other uses of the shoreline. Further, there are public amenities in the vicinity of the DNODS which are incompatible with continuing use of the disposal site.

4. *Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packing the waste, if any.* [40 CFR 228.6(a)(4)]

All dredged material dumped in ocean disposal sites must satisfy the criteria for ocean dumping permits specified in EPA's Ocean Dumping Regulations [40 CFR Part 227].

The types of dredged material to be dumped at DNODS and method of release will be typical of previous dredging operations in the lower Chesapeake Bay channels that involved ocean disposal since 1967. The dredged materials will consist of uncontaminated sediments removed from the existing Thimble Shoal and Cape Henry Channels and the planned Atlantic Ocean Channel.

Thimble Shoal Channel is approximately 12 nm long and is maintained 45 feet deep and 1,000 feet wide. The channel extends between deep water just to the east of Hampton Roads and deep water at the Chesapeake Bay mouth. West of the Chesapeake Bay Bridge Tunnel the channel sediments are clays and silts (50–75%), but fine to medium sands are present (75–90%), within the eastern end of the channel. The planned deepening to 55 feet would result in approximately 23.5 million cubic yards for disposal with maintenance expected to average about 900,000 cubic yards every 5 years. The project is projected to be phased with approximately 3.6 million cubic yards to be disposed from the outboard Thimble Shoal Channel to 50 feet for 1987 and 1988.

Cape Henry Channel is about 2.5 nm long and is maintained to 42 feet deep and 1,000 feet wide. The channel is at the Chesapeake Bay mouth and is the start of the route north to Baltimore. The channel sediments are predominately fine sand (80–90%) with some silt, clay and shell. The planned deepening will require approximately 3.2 million cubic yards to be disposed with maintenance expected to average about 1,000,000 cubic yards every 4 years.

The Atlantic Ocean Channel is in the vicinity of the present southeast sea lanes. The planned deepening to 57 feet and 1,000 feet wide will involve dredging of about 10 million cubic yards of fine sand (80–90%) with silt, some clay, and some gravel. Maintenance dredging is predicted to average 1,000,000 cubic yards to material every 5 years.

The dredging and release of dredged material will be removed from the channels by self-propelled trailing suction hopper dredges and transported to the DNODS by these same seagoing vessels. The materials will be released at the site by bottom dumping. Split hopper dredges accomplish this by opening the hull.

The dredged material from the Hampton Roads is a finer grained material which often contains contaminants. As a result, all inner harbor dredge disposal will occur in the Craney Island contained disposal area.

Chemical and biochemical studies conducted on the channels proposed for ocean disposal at DNODS were shown to meet EPA criteria. Further, suspended solid phase bioassays conducted on sediments from the Thimble Shoals and Cape Henry Channels indicated that sediments exhibited low levels of acute toxicity for the grass shrimp, *Palaemonetes pugio* and the blue mussel, *Mytilus edulis*. In all cases, the mortalities of test organisms exposed to the various elutriate concentrations was not significantly different from that exhibited by the controls. The solid phase bioassay experiments also indicated a low degree of toxicity for sediments from Thimble Shoals and Cape Henry Channels. Osmoregulation studies on suspended solid phase bioassays indicated that materials did not produce significant sublethal effects. Elutriates of sediments did not affect the ability of *P. pugio* to hyperregulate at low salinities or hyporegulate at high salinities.

5. *Feasibility of surveillance and monitoring.* [40 CFR 228.6(a)(5)]

The Dam Neck Site does not currently have surveillance by the U.S. Coast Guard. Instead, the COE employs qualified personnel for contractor surveillance on the dredge. To assist in assurance that all disposal takes place in the proper location, the U.S. Coast Guard has placed two special buoys to mark the location of actual discharge within the dump site. The Coast Guard will monitor these buoys periodically.

The Corps of Engineers conducts bathymetric survey monitoring of the channels and dumpsite. Surveys are conducted on a minimum annual basis and more frequently as needed during the channel construction phase, pre- and post-dump surveys for each major segment of the project. Also included in the monitoring of transport, the EPA with the assistance of the Corps has placed sediment traps around the site to assure no significant transport toward the beach. Traps will be monitored semi-annually.

EPA has a continuing monitoring program at the site for annual assessment of benthic communities, chemical characterization and biological changes near the site. This program will continue through the construction phase of the project. In addition, in conjunction with the National Marine Fisheries Service, EPA will conduct a two-year study to assess the actual sea turtle migration through the site during the spring migration.

Water quality monitoring will continue by both the EPA and Corps to assure no changes in water quality due to ocean disposal during the critical summer periods.

Bioassays and bioaccumulation analyses and appropriate monitoring of the site sediments and dredged materials will be determined on a case-by-case basis by EPA and the Corps as necessary. Should evidence of

significant adverse environmental effects occur, EPA will take appropriate steps as provided in 40 CFR Part 228.

Last, EPA and the Corps of Engineers are entering into a Memorandum of Understanding for a joint site management and monitoring plan. Anyone interested or wishing to comment on the monitoring program can request copies from EPA.

6. *Dispersal, horizontal transport and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any.* (40 CFR 228.6(a)(6)).

The physical oceanographic characteristics of the DNODS are typical of the inner continental shelf circulation seaward of the littoral zone. The inner shelf circulation seaward of the 10 meter contour is generally aligned with the bathymetric contours, with a negligible onshore-offshore component. The dispersal, horizontal transport, and vertical mixing characteristics of the DNODS are influenced by a net southward oceanic circulation rather than the nearshore littoral forces.

Near surface currents in the vicinity of the site range from 5 to 9 cm/s during the summer, and 4 to 6 cm/s during the fall. Bottom currents during those periods averaged 0 to 2 cm/s during summer and between 1 to 3 cm/s during the fall. Bottom currents are oriented north-south at 3 to 12 cm/s during the presence of moderate wave action. The threshold for transport of medium grained sand is taken at 20 cm/s and it is therefore concluded that wave induced sediment movement is oscillatory and should produce no net translation of sediment. However, as noted in the previous section, monitoring will be conducted to assure no impacts to amenities due to sediment transport.

Immediate dispersal and horizontal transport of the dredged material are influenced primarily by the method of placement, type of dredged material, and depth of water at the disposal site. The material is expected to be released by bottom dumping hopper dredges at depths of 6 to 9 meters below the water surface and rapidly descend to the bottom at depths of about 10 to 15 meters. Noncohesive materials such as sand and shell would descend as high density flow, whereas cohesive sediments would descend as a cohesive mass of material. The sediments that are proposed for disposal vary from cohesive to non-cohesive material. The length of the bottom impact zone depends on the speed of the dredge and time required to release the load and is typically less than 1,500 feet for a split hull dredge and less than 3,000 feet for a conventional bottom door dredge. Deposition of the dredged material typically occurs no more than 500 feet laterally from the path of the hopper dredge. Field studies show losses at the site as less than one percent.

Long-term disposal and horizontal transport of dredged material should not be significant at the DNODS due to currents which are insufficient to transport significant amounts of dredged materials. Numerous pre and post-dump bathymetric surveys indicate optimal retention at the site.

7. *Existence and effects of current and previous discharges and dumping in the area (including cumulative effects).* (40 CFR 228.6(a)(7))

The DNODS has been used for over 20 years with approximately 19 million cubic yards of dredged material being disposed at the site. Based upon studies by EPA, the COE and the Hampton Roads Sanitation District, there appears to be no significant difference in benthos, fisheries, water quality, and sediment quality between the disposal site and adjacent areas which have not been disposed on. Dredging records indicate that most of the materials dumped at the site came from Cape Henry and Thimble Shoal Channel. The lack of any statistically significant difference between the disposal site and adjacent areas tends to indicate that there have been little long-term adverse impacts associated with disposal.

The only detected long-term effects from previous dredged material disposed at the site were limited to physical effects. The materials dumped at the site have been varying mixtures of uncontaminated fine sand, silts, and clays. The immediate effects of disposing of these materials have been restricted to minor short-term increases in water column suspended solids, and the burial of limited bottom areas with a thin layer of dredged material.

Investigations by the U.S. Army Corps of Engineers Waterways Experiment Station have indicated the suspended solids levels typically return to ambient levels shortly after open water disposal operations are completed. Studies have also indicated that bottom areas buried by dredged material are typically repopulated within several months.

The cumulative effects of disposal at this DNODS are limited to bathymetric changes. Operational control of previous disposal and the relatively stable environment have resulted in a measurable buildup of dredged material deposits in the northern end of the DNODS. Studies by EPA have, however, indicated that during the 20-year period of dumping, there may have been some dumping outside the site as evidenced by REMOTS camera photographs. Except for these changes, there were no biological, or chemical effects from previous disposal at the site.

Motile finfish and shellfish generally are capable of escaping from released sediments. No existence of any significant adverse impacts were identified. No fish kills were identified to occur in the vicinity of the site during the 20-year period. No shellfish beds, existing or relic were found in the area. No evidence of any significant adverse impacts on macrofauna or microfauna abundance due to previous dredged material disposal was apparent during site surveys.

The results of bioassay and sediment quality at the Thimble Shoal Channel indicate a relatively uncontaminated sediment and it is unlikely that previous disposal either directly was toxic to marine organisms or contributed significant amounts of contaminants to the ecosystem.

8. *Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance and other legitimate uses of the ocean.* (40 CFR 228.6(a)(8)).

The mouth of the Chesapeake Bay and near shore waters are heavily utilized for shipping, fishing and recreational boating. However, the DNODS is located south and inshore of the shipping lanes and offshore of the primary near shore fishery and inshore of the major sport fishery.

Conch, blue crabs, and menhaden as well as croaker, spot and sea trout are caught in the area. Further, an extensive summer flounder fishery occurs inshore of the site. However, there are restrictions to use of the area as it is near a Navy firing range. While this would not restrict disposal, it does limit commercial trawling operations.

The prime recreational fishing areas are near the mouth of the bay and further off shore, 10 to 15 nm, according to published fishing records. Dredged material disposal will be fairly frequent over the next five years; however, it would not restrict any fishing activity around the site. Further, due to the mounding that will occur, the trawling would be difficult within the site.

Use of the DNODS should not affect the traffic into the Chesapeake Bay or along the coast. Deep draft shipping to and from the ports of Baltimore or Hampton Roads must comply with the Chesapeake Bay Traffic Separation Scheme. The DNODS is located south of these channels. The DNODS is inshore of the deep draft coastal shipping routes. Further, shallow draft commercial fishing and sport boats will not be

affected since their drafts are typically 15 feet or less.

All considerations for mineral extraction in Virginia waters are in the exploratory stages. The DNODS is not expected to interfere with these uses as it is well inshore of the proposed oil and natural gas drilling lease areas.

Presently there are no desalination plants within the study area. EPA is, however, currently investigating the use of reverse osmosis for desalination in the Norfolk area. The location for the pilot facility has not been chosen. It is doubtful that the intake would be in the ocean rather than the bay where salinities are much lower.

Concerning areas of special scientific importance, the area does not contain any unique physical or biological features. However, the area has been studied as part of the Hampton Roads Sanitation District ocean outfall located one mile from the site. Use of the site for disposal should not interfere with the operation of the ocean outfall. A separate monitoring program was established between the U.S. Corps of Engineers and the EPA to assure there are no synergistic effects of dredge material disposal and the ocean outfall.

There are no fish and shellfish mariculture activities in or around the site. Last, the only other known use of the area is by the U.S. Navy military firing range. Since the firing area encompasses the DNODS, the COE and its contractor coordinate with the Navy to schedule disposal operations. The Navy also conducts underwater explosive ordnance in the area which must also be coordinated with the disposal schedule.

9. *The existing quality and ecology of the site as determined by available data or by trend assessment or baseline surveys.* (40 CFR 228.6(a)(9)).

The existing water quality of the DNODS area has been classified by the State of Virginia as non-degraded, suitable for public water supplies, primary contact recreation, propagation of fish and other beneficial uses. The surface dissolved oxygen concentrations in the area are generally at or near saturation. However, background levels of dissolved oxygen in the bottom waters of the area are periodically below 5 mg/1. Nitrogen and phosphorus levels are moderate, exhibiting mean concentrations of 0.3 mg N/1 and 0.06 mgP/1. During summer to early fall, a strong thermal-salinity density stratification during winter to spring with significant vertical mixing.

The water quality in the area of the site is primarily affected by discharges from the Hampton Roads Sanitation District which discharges effluent from secondary treatment and filtration facilities and by the DNODS which has been used for the past 20 years. The near coastal waters of the site are also affected by the outflow from Chesapeake Bay which constitutes over 50% of the freshwater inflow to the Continental Shelf of the Mid-Atlantic Bight.

The ecology of the DNODS is greatly influenced by its position adjacent to the mouth of the Chesapeake Bay. The outflow from the Bay enhances primary production by contributing nutrients and detrital material to the inner continental shelf region. Phytoplankton cell concentrations in the Bay plume are significantly higher than in shelf waters outside the plume. Seasonal changes in phytoplankton composition is related to the Bay plume changes in composition, quantity of flow, temperature, and salinity.

The meroplankton in the DNODS area is dominated by the blue crab, bay anchovy, and sand shrimp larvae. The blue crab megalope were found in the center of the area but the zoea were found in greatest numbers offshore and to the north of the site. The DNODS does not appear to represent a major larval transport route for any commercially significant species except for the blue crab. Commercial and sport fishes were found to use the area during migration but no important spawning occurs.

The benthos of the area supports a productive benthic faunal population which is typical of benthos of the mid-Atlantic inner continental shelf. Commercial benthos abundances were found to be low and only species of marginal commercial importance were collected with none in significant numbers. The non-commercial benthic macroinfaunal community was found to be a typical sandy substrate assemblage.

Dumping of dredged material over 20 years has not significantly affected water quality. Therefore, use of the site is not expected to have significant water quality or ecology impacts. The benthic community would have short-term changes due to increased sediment loading. However, due to natural recolonization of the benthos, these impacts are not expected to be significant.

10. *Potentiality for the development or recruitment of nuisance species in the disposal site.* (40 CFR 228.6(a)(10)).

Dredged material has been placed in the DNODS since the mid-1960's. Monitoring in this area has not detected the development or recruitment of nuisance species. Further, the sediments placed in the site and which will be disposed in the future, meets ocean disposal criteria as specified by the COE and EPA.

Benthic organisms in the disposal area are typical of benthic faunal populations of the inner continental shelf. The open ocean conditions at the DNODS including low bottom temperatures, high salinities, and coarse grained dredged materials with low organic content should not favor microbial activity or proliferation and are not expected to develop as nuisance species. In addition, annual monitoring for potential nuisance species will be conducted by EPA.

11. *Existence at or in proximity to the site of any significant natural or cultural features of historical importance.* (40 CFR 228.6(a)(11)).

The area extending from Assateague Island to Fisherman's Island and offshore for 10 nm is on the National Oceanographic and Atmospheric Administration's site evaluation list for consideration as a marine sanctuary. Most of Fisherman's Island, located on the north side of the Bay mouth, is a National Wildlife Refuge known for having a wide variety of birds which are particularly abundant during seasonal migratory periods. The Back Bay National Wildlife Refuge and False Cape State Park are located south of the study area. Neither of these areas would be affected by long-term disposal at the DNODS.

There are 17 known historic vessels that have been lost in the vicinity of the disposal area. Within the site boundaries of the DNODS there are no known wrecks, obstruction, or other significant natural or cultural features. The nearest known wreck is located about ¼ nm east of the proposed eastern boundary and has been tentatively identified as a 500-ton vessel called Kingston Celonite which sank in June 1942. A second obstruction has been located about ¾ nm north-northwest of the proposed northwest corner of the site and is listed as wreck, unknown. The disposal of dredged material at the DNODS is not likely to adversely disturb or otherwise impact marine archaeological resources.

E. Action

The designation of the Dam Neck Ocean Disposal Site as an EPA approved Ocean Dumping Site is being published as final rulemaking. Management of this site will be the responsibility of the Regional Administrator of EPA Region III.

It should be emphasized that, when the ocean dumping site is designated, such a site designation does not

constitute or imply EPA's approval of actual disposal of materials at sea. Before ocean dumping of dredged material at the site may commence, other than that already approved under Section 103 of the Marine Protection, Research, and Sanctuaries Act, the Corps of Engineers must evaluate a permit application according to EPA's ocean dumping criteria. EPA has the right to disapprove the actual dumping, if it determines that environmental concerns under the Act have not been met.

F. Regulatory Assessments

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal option for dredged material. Consequently, this rule does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this rule does not necessitate preparation of a Regulatory Impact Analysis.

This Final Rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 228

Water pollution control.

Dated: March 23, 1988.

James M. Seif,

Regional Administrator for Region III.

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is amended as set forth below.

PART 228—[AMENDED]

1. The authority citation for Part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

2. Material Sites Listing in section 228.12 is proposed to be amended by removing the "Dam Neck" site from the Dredged paragraph (a)(3) and by adding paragraph (b)(55) to read as follows:

§ 228.12 Delegation of management authority for ocean dumping sites.

* * * * *

(b) * * *

(55) Dam Neck, Virginia, Dredged Material Disposal Site—Region III. Location: 36°51'24.1" N., 75°54'41.4" W.; 36°51'24.1" N., 75°53'02.9" W.; 36°50'52.0" N., 75°52'49.0" W.; 36°46'27.4" N., 75°51'39.2" W.; 36°46'27.5" N., 75°54'19.0" W.; 36°50'05.0" N., 75°54'19.0" W.:

Size: 8 square nautical miles.

Depth: Averages 11 meters.

Primary Use: Dredged material.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to dredged material from the mouth of the Chesapeake Bay.

[FR Doc. 88-7078 Filed 3-30-88; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 712

[OPTS-82030A; FRL-3357-2]

Chemical Information Rules; Addition of Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is adding eighteen chemical substances to the list of substances identified in the Preliminary Assessment Information Rule (PAIR, 40 CFR Part 712). Manufacturers and importers who produce or import the listed substances are required to submit production volume, end use, and exposure data to EPA. The Agency will use the reported data to evaluate risks associated with these substances.

DATES: In accordance with 40 CFR 23.5 (50 FR 7271), this rule shall be promulgated for purposes of judicial review at 1 p.m. eastern time on April 14, 1988. This rule shall become effective on May 16, 1988.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Acting Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404.

SUPPLEMENTARY INFORMATION: EPA is adding eighteen chemical substances to the list of chemicals identified in PAIR. After the effective date of this rule, manufacturers and importers of these substances are required to provide EPA with a Preliminary Assessment Information Manufacturer's Report for each plant site at which these substances are manufactured or imported.

This rule was originally proposed (52 FR 18245, May 14, 1987) together with the proposed Addition of Chemicals to Information Rules; Pesticide Inert Ingredients. The Pesticides Inert Ingredients proposal included establishment of a new paragraph (v) in 40 CFR 712.30 in which chemical substances would be listed. The proposed rule for these eighteen chemical substances would have added the eighteen to the new paragraph (v). Due to changes in the final publication schedule for the Pesticide Inert Ingredients rule, this final rule establishes 40 CFR 712.30(w) rather than adding to § 712.30(v) as originally proposed.

The proposed rule included 24 substances. Six substances are not included in the final rule for the reasons discussed in Unit IV below.

I. Authority

Pursuant to section 8(a) of the Toxic Substances Control Act (TSCA, 15 U.S.C. 2607(a)), EPA promulgated PAIR (40 CFR Part 712). This model section 8(a) rule established standard reporting requirements for manufacturers and importers of chemical substances listed in § 712.30. These manufacturers and importers are required to submit a one-time report on production volume, end use, and exposure using the Preliminary Assessment Information Manufacturer's Report (EPA Form 7710-35). EPA uses this model section 8(a) rule to quickly gather current information on substances of concern.

II. Summary of This Rule

EPA is adding eighteen chemical substances to the list of chemicals identified in PAIR. Manufacturers and importers of these substances are required to provide EPA with a Preliminary Assessment Information Manufacturer's Report for each plant site at which these substances are produced or imported. A separate form must be completed for each substance. Complete details of the reporting requirements, including exemptions and a facsimile of the reporting form, are fully described in 40 CFR Part 712. Copies of the reporting form and a question and answer document to assist submitters in completing the form are available from the TSCA Assistance Office at the address and telephone number preceding Unit I of this rule. Reports must be submitted to the following address by July 13, 1988: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M

St., SW., Washington, DC 20460, ATTN: PAIR Reporting.

SUBSTANCES ADDED TO PAIR

[Listed alphabetically by TSCA Inventory name]

Substance	CAS No.
Barium chloride	10361-37-2
Bromine	7726-95-6
Cyclohexene, 4-ethenyl-	100-40-3
Ferromanganese	12604-53-4
Hydrocyanic acid	74-90-8
Hydrofluoric acid	7664-39-3
Manganese oxide	1313-13-9
Molybdenum oxide	1313-27-5
Nitric acid, silver (1+) salt	7761-88-8
Palladium chloride	7647-10-1
Phosphorus	7723-14-0
Selenium	7782-49-2
Silver	7440-22-4
Sodium fluoride	7681-49-4
Sulfuric acid, cobalt (2+) salt (1:1)	10124-43-3
Sulfuric acid, manganese (2+) salt (1:1)	7785-87-7
Tungsten carbide	12070-12-1
Vanadium oxide	1314-62-1

As part of an ongoing effort to coordinate information gathering requests from different offices in EPA, this rule includes chemical substances nominated by the Office of Air Quality Planning and Standards and the Office of Toxic Substances. This coordination will lead to efficient use of resources for both industry and the government by avoiding duplicative information requests by multiple offices in EPA. This savings will be reflected in reduced Agency implementation costs and industry reporting costs.

The nominating office and the particular reasons for each office's information request on the substances listed in this rule are discussed in Unit III of this preamble.

III. Agency Rationale and Objectives

A. Office of Air Quality Planning and Standards

EPA's Office of Air Quality Planning and Standards (OAQPS) needs basic data on the production and emissions of seventeen chemical substances and has requested that this information be gathered through adding these substances to the list of substances identified in the PAIR. After the effective date of this rule, persons who manufacture or import the listed substances are required to submit production volume, end use, and exposure data to EPA.

A necessary step in the regulatory program for addressing toxic air pollutants is a preliminary ranking and screening of substances that have been identified as potential air pollutants. The purpose of ranking and screening is to select, from a large number of candidates, those substances most deserving of closer attention and further analysis by EPA. Ideally, a full range of toxicological and epidemiological information, coupled with detailed estimates of current emissions and human exposure, would be utilized to rank and screen the identified substances. However, such complete information is seldom, if ever, available. Furthermore, the number of candidates is potentially very large, and the resources required to develop complete information are prohibitive. For these reasons, early prioritization and screening must be based on limited, readily available data and an evaluation process subsequently used that provides opportunity for further refinement of the list of candidates.

Twelve of the seventeen chemical substances nominated by OAQPS are currently included in the prioritization and screening effort to determine which chemicals are to receive regulatory assessment. Several types of readily available information are used in making this determination. These include health effects information and estimates of the potential for population exposure. The potential for population exposure may be estimated from volatility information and from production volume such as that obtained under this rule. The twelve substances (listed here by the common name with the TSCA Chemical Substances Inventory name in parentheses) which are being added to PAIR are: Barium Chloride, Cobaltous Sulfate (Sulfuric acid, cobalt (2+) salt (1:1)), Ferromanganese, Manganese Dioxide (Manganese oxide), Manganese (II) Sulfate (1:1) (Sulfuric acid, manganese (2+) salt (1:1)), Molybdenum Trioxide (Molybdenum oxide), Palladium (II) Chloride (Palladium chloride), Silver, Silver Nitrate (Nitric acid, silver (1+) salt), Sodium Fluoride, Tungsten Carbide, and Vanadium Pentoxide (Vanadium oxide).

The extent of the information needed is similar to the data gathered through the Final Rule, Partial Updating of the TSCA Chemical Inventory Data Base (Inventory Update Rule), published in the **Federal Register** of June 12, 1986 (51 FR 21438). However, the Inventory Update Rule specifically exempts manufacturers and importers of most inorganic substances (including those substances nominated by OAQPS for this rule) from reporting. This exemption was included to avoid unnecessary reporting on the many inorganic substances not currently of interest to EPA for risk assessment review. By using PAIR to selectively obtain needed production, end use, and exposure data on those inorganic substances identified by Agency programs for possible review, EPA can efficiently obtain the data it needs on those specific substances while minimizing overall reporting burdens.

The remaining five chemical substances nominated by OAQPS have already been selected for regulatory assessment. These substances (again, listed by common name with the TSCA Chemical Substance Inventory name in parentheses) are: Bromine, Hydrocyanic Acid, Hydrogen Fluoride (Hydrofluoric acid), Phosphorus, and Selenium. The information gathered on these substances will serve as part of the basis for decisions on the need to further assess the substances as toxic air pollutants under the Clean Air Act (42 U.S.C. 7401–7626). Listing these substances under PAIR does not indicate that they are going to be regulated under the Clean Air Act or TSCA, only that they are undergoing regulatory assessment with a view to determining whether regulatory action is appropriate under TSCA or the Clean Air Act.

B. Office of Toxic Substances

EPA's Office of Toxic Substances (OTS) needs up-to-date information on the manufacture and import of one chemical substance whose common name (with the TSCA Chemical Substance Inventory name in parentheses) is: 4-vinylcyclohexene (Cyclohexene, 4-ethenyl-). Because OTS needs end use and exposure data, the Inventory Update Rule will not provide the necessary information. The data obtained on this substance will be used by OTS in risk analysis. This substance is discussed in the paragraph below.

4-Vinylcyclohexene. EPA is adding 4-vinylcyclohexene, CAS No. 100–40–3, to the list of chemical substances identified in PAIR. The primary use of 4-vinylcyclohexene is as a site-limited intermediate in the production of 4-vinylcyclohexene diepoxide, which is then used to make epoxy resins. 4-vinylcyclohexene is also a byproduct of synthetic rubber production. Exposure could occur dermally or through inhalation. Studies on 4-vinylcyclohexene showed limited evidence of carcinogenicity. No data are available on worker exposure during manufacture, processing, or use in the United States. This data is necessary to determine if a risk assessment is required.

IV. Comments on Proposed Rule

All of the comments received from the public on the proposed rule were chemical-specific, and some contained

additional information on the chemical substances. The nominating offices reviewed the material received and determined whether the additional data met their needs. No chemical substances were removed from the list as a result.

A. Comments on OAQPS Substances

The comment received opposing inclusion of barium chloride (CAS No. 10361–37–2) states that it has relatively low toxicity and potential for human exposure as an air pollutant. The Agency notes that the data collection effort under PAIR is intended to enable EPA to assign a priority to the need to assess barium chloride as an air pollutant relative to other chemicals. The type of data being requested for barium chloride is gathered for many other compounds and does not imply that it will be considered to be a hazardous air pollutant. However, information is needed to assess exposure potential, and the comment does not provide information adequate to conduct the assessment necessary for barium chloride.

Several commenters opposed the inclusion of titanium dioxide (CAS No. 13463–67–7) in PAIR. Information developed in response to a proposal to delist titanium dioxide from specific reporting requirements under section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99–499, "SARA") has addressed the information needs of the Agency. For this reason, titanium dioxide is not included in this final rule.

One commenter opposed the inclusion of sodium hydroxide (CAS No. 1310–73–2), asserting that it is not a hazardous air pollutant. As a result of additional information developed subsequent to proposal by the Agency in support of a decision on the chemical substance, sodium hydroxide is not included in this final rule.

The Agency has determined that supplemental information which has become available through another Agency program is adequate to address its information needs on mercuric chloride (CAS No. 7487–94–7). For this reason, mercuric chloride is not included in this final rule.

Because of concerns that the health effects data for magnesium hydroxide (CAS No. 1309–42–8) does not associate inhalation exposure to this compound with adverse health effects not controlled against by the National Ambient Air Quality Standard for particulate matter, the Agency is deferring a decision on whether the substance will be included in a future PAIR rule until further health effects data is obtained. For this reason, magnesium hydroxide is not included in this final rule.

B. Comments on OTS Substances

The proposed rule contained two other substances nominated by OTS. Two commenters submitted teratology studies on phenylethyl alcohol (CAS No. 60–12–8). Since teratological effects are of major concern to OTS, pending review of these studies the Agency is deferring a decision on whether phenylethyl alcohol and phenylethyl acetate (CAS No. 103–45–7) will be included in a future PAIR rule. Thus, phenylethyl alcohol and phenylethyl acetate are not included in this final rule.

V. Release of Aggregate Data

The Agency will follow procedures for the release of aggregate statistics as prescribed in a rule related notice published in the **Federal Register** of June 13, 1983 (48 FR 27041). Included in the notice are procedures for requesting exemptions from the release of aggregate data. Exemption requests concerning the release of aggregate data on any chemical substance must be received by EPA no later than July 13, 1988.

VI. Economic Analysis

EPA estimates the total reporting cost of this rule is $328,560. To calculate this figure EPA used the nonconfidential TSCA Inventory data base, plus current information from other published sources, to generate a list of manufacturers and importers of these chemical substances. After excluding firms which reported no production or importation, 180 companies were listed as manufacturers or importers of the chemical substances. Since 32 of these companies qualify as a small business as defined in 40 CFR 712.25(c), EPA expects 148 firms to report a total of 222 reports.

The estimated total reporting costs are as follows:

222 reports @ $807/report	$179,154
+222 familiarization cases @ $673 case	149,406
Total	328,560
Average cost per site	1,480
Average cost per firm	2,220

VII. Rulemaking Record

The following documents constitute the rulemaking record for this rule (docket control number OPTS–82030A). All of these documents are available to the public in the OTS Public Reading Room from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The OTS Reading Room is located at EPA Headquarters, Rm. NE–G004, 401 M St., SW., Washington, DC.

1. Preliminary Assessment Information Rule (40 CFR Part 712).
2. This rule.
3. Economic analysis of this rule.
4. The proposed rule (52 FR 18250, May 14, 1987).
5. A chemical hazard information profile for 4-Vinylcyclohexene.
6. Health effects and use information on the OAQPS chemical substances nominated for this rule.
7. Public Comments.

VIII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore requires a regulatory impact analysis. The Agency has determined that this rule is not "major" because it will not have an effect of $100 million or more on the economy. EPA also anticipates that this rule will not have a significant effect on competition, costs, or prices.

This rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

EPA expects only 148 companies to report under this rule, well within Regulatory Flexibility Act guidelines. The rule exempts "small" manufacturers and importers (as defined in 40 CFR 712.25(c)) from reporting on these chemical substances. Therefore, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and has assigned OMB Control Number 2070–0054.

List of Subjects in 40 CFR Part 712

Chemicals, Environmental protection, Recordkeeping and reporting requirements.

Dated: March 21, 1988.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR Part 712 is amended as follows:

PART 712—[AMENDED]

1. The authority citation for Part 712 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

2. Section 712.30 is amended by adding paragraph (w) to read as follows:

§ 712.30 Chemical lists and reporting periods.

* * * * *

(w) Manufacturers and importers of the substances listed below must submit a Preliminary Assessment Information Manufacturer's Report for each site at which they manufacture or import each substance by the reporting date shown in the table below. The substances are listed in Chemical Abstracts Service Registry Number order. Typically EPA lists the trivial or common name first, then, following the symbol "—", EPA lists the substance by its TSCA Chemical Substance Inventory name. Whenever EPA lists a single name, the name may be either the TSCA Chemical Substance Inventory name, a trivial name, or a common name. Generally, when a single name is listed, it is the TSCA Chemical Substances Inventory name.

CAS No.	Substance	Effective date	Reporting date
74-90-8	Hydrocyanic acid	5-16-88	7-13-88
100-40-3	4-vinylcyclohexene—cyclohexene, 4-ethenyl	5-16-88	7-13-88
1313-13-9	Manganese dioxide—manganese oxide	5-16-88	7-13-88
1313-27-5	Molybdenum trioxide—molybdenum oxide	5-16-88	7-13-88
1314-62-1	Vanadium pentoxide—vanadium oxide	5-16-88	7-13-88
7440-22-4	Silver	5-16-88	7-13-88
7647-10-1	Palladium (II) chloride—palladium chloride	5-16-88	7-13-88
7664-39-3	Hydrogen fluoride—hydrofluoric acid	5-16-88	7-13-88
7681-49-4	Sodium fluoride	5-16-88	7-13-88
7723-14-0	Phosphorus	5-16-88	7-13-88
7726-95-6	Bromine	5-16-88	7-13-88
7761-88-8	Silver nitrate—nitric acid, silver (1+) salt	5-16-88	7-13-88
7782-49-2	Selenium	5-16-88	7-13-88
7785-87-7	Manganese (II) sulfate (1:1)—sulfuric acid, manganese (2+) salt (1:1)	5-16-88	7-13-88
10124-43-3	Colbaltous sulfate—sulfuric acid, cobalt (2+) salt (1:1)	5-16-88	7-13-88
10361-37-2	Barium chloride	5-16-88	7-13-88
12070-12-1	Tungsten carbide	5-16-88	7-13-88
12604-53-4	Ferromanganese	5-16-88	7-13-88

[FR Doc. 88-6914 Filed 3-30-88; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 761 and 796

[OPTS 29001; FRL-3358-1]

Polychlorinated Biphenyls and Chemical Fate Testing Guidelines; Incorporation by Reference; Reapproved Test Methods

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA has incorporated by reference certain American Society for Testing and Materials (ASTM) test methods in the Polychlorinated Biphenyls (PCB) regulations, 40 CFR Part 761, and in the Chemical Fate Test Guidelines, 40 CFR Part 796. Incorporated test methods that are subsequently reviewed and reapproved by ASTM need not be proposed for reapproval by the Director of the Office of the Federal Register. Instead, such test methods must be announced through publication in the **Federal Register.** This document announces those incorporated test methods that have been reviewed and reapproved by ASTM.

EFFECTIVE DATE: March 31, 1988.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Acting Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room E-543, 401 M St. SW., Washington, DC 20460, Telephone: 202-554-1404.

SUPPLEMENTARY INFORMATION: EPA is announcing the reapproval of two ASTM test methods which are incorporated by reference (IBR) in the PCB regulations, and in the Chemical Fate Test Guidelines. The reapproved IBRs are ASTM D 1193-77, Standard Specification for Reagent Water, and ASTM E 258-67 (Reapproved 1982), Standard Test Method for Total Nitrogen in Organic Material by Modified KJELDAHL Method. The reapproved test methods are available from the Public Reading Room, in Room NE-G004, at the address above.

The designations of the old test methods and the equivalent new designations are as follows:

Old designation	New designation
ASTM E 258-67	ASTM E 258-67 (reapproved 1987).
ASTM D 1193-77	ASTM D 1193-77 (reapproved 1983).

A. Executive Order 12291

Under E.O. 12291, issued February 17, 1981, EPA must judge whether a rule is a major rule and, therefore, subject to the requirement that a Regulatory Impact Analysis be prepared. EPA has determined that this rule is not a major rule as the term is defined in section 1(b) of E.O. 12291. Therefore, EPA has not prepared a Regulatory Impact Analysis for this rule. This rule has not been sent to OMB for review.

B. Regulatory Flexibility Act

Under section 605(b) of the Regulatory Flexibility Act the Administrator may certify that a rule will not, if promulgated, have a significant impact on a substantial number of small entities, and therefore does not require a regulatory flexibility analysis. This rule merely updates certain American Society for Testing and Materials (ASTM) test methods, which are incorporated by reference in the PCB regulations and in the Chemical Fate Test Guidelines to current ASTM test methods. Since no negative economic effect is expected upon any business entity from the promulgation of this rule, I certify that this rule will not have a significant economic impact on small entities.

C. Paperwork Reduction Act

EPA has determined that the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, does not apply to this final rule since no information collection or recordkeeping is involved.

List of Subjects in 40 CFR Parts 761 and 796

Environmental protection, Chemical, Hazardous substances, Health, Labeling, Laboratories, PCB, Reporting and recordkeeping requirements, Incorporation by reference.

Dated: March 14, 1988.

Charles L. Elkins,

Director, Office of Toxic Substances.

Therefore, 40 CFR, Chapter I is amended as follows:

PART 761—[AMENDED]

1. In part 761:

a. The authority citation for Part 761 continues to read as follows:

Authority: 15 U.S.C. 2605, 2607, and 2611; Subpart G also issued under 15 U.S.C. 2614 and 2616.

§ 761.19 [Amended]

b. In § 761.19, paragraph (b), the reference to "ASTM E 258–67 (Reapproved 1982)" is revised to read "ASTM E 258–67 (Reapproved 1987)".

§ 761.60 [Amended]

c. In § 761.60, paragraph (a)(3)(iii)(B)(*6*), the reference to "ASTM E 258–67", is revised to read "ASTM E 258–67 (Reapproved 1987)".

PART 796—[AMENDED]

2. In Part 796:

a. The authority citation for Part 796 continues to read as follows:

Authority: 15 U.S.C. 2603.

§ 796.1550 [Amended]

b. In § 796.1550 by revising "ASTM D 1193–77" to read "ASTM D 1193–77 (Reapproved 1983)", in two places in paragraph (b)(1)(iii).

§ 796.1570 [Amended]

c. In § 796.1570 by revising "ASTM D 1193–77" to read "ASTM D 1193–77 (Reapproved 1983)", in two places in paragraph (b)(1)(ii).

§ 796.1720 [Amended]

d. In § 796.1720 by revising "ASTM D 1193–77" to read "ASTM D 1193–77 (Reapproved 1983)", in two places in paragraphs (b)(1)(ii), and (b)(2)(i).

§ 796.1840 [Amended]

e. In § 796.1840 by revising "ASTM D 1193–77" to read "ASTM D 1193–77 (Reapproved 1983)", in two places in paragraph (b)(1)(ii).

§ 796.1860 [Amended]

f. In § 796.1860 by revising "ASTM D 1193–77" to read "ASTM D 1193–77 (Reapproved 1983)", in two places in paragraph (b)(1)(ii).

§ 796.3500 [Amended]

g. In § 796.3500 by revising "ASTM D 1193–77" to read "ASTM D 1193–77 (Reapproved 1983)", in two places in paragraph (b)(1)(ii).

§ 796.3700 [Amended]

h. In § 796.3700 by revising "ASTM D 1193–77" to read "ASTM D 1193–77 (Reapproved 1983)", in two places in paragraph (b)(2)(i)(B).

§ 796.3780 [Amended]

i. In § 796.3780 by revising "ASTM D 1193–77" to read "ASTM D 1193–77 (Reapproved 1983)", in two places in paragraph (b)(1)(iv)(A).

[FR Doc. 88–7064 Filed 3–30–88; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 799

[OPTS–52098; FRL–3358–4]

Testing Consent Order on Methyl Tert-Butyl Ether and Response to the Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document announces that EPA has signed an enforceable Testing Consent Order for methyl tert-butyl ether (MTBE) with five manufacturers of the MTBE Health Effects Testing Task Force. These manufacturers have agreed to perform certain health effects tests on MTBE. This rule adds MTBE to the list of Testing Consent Orders in 40 CFR 799.5000 for which the export notification requirements of 40 CFR Part 707 apply. This document constitutes EPA's response to the Interagency Testing Committee's (ITC) recommendation that EPA consider health effects and chemical fate testing of MTBE.

EFFECTIVE DATE: March 31, 1988.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Acting Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Rm. E–543, 401 M Street SW., Washington, DC 20460, (202) 554–1404.

SUPPLEMENTARY INFORMATION: Under procedures described in 40 CFR Part 790, five manufacturers have entered into a Testing Consent Order with EPA in which these five manufacturers have agreed to perform certain health effects testing of MTBE. This rule amends 40 CFR 799.5000 to add MTBE to the list of chemical substances and mixtures subject to Testing Consent Orders.

I. ITC Recommendations

In its 19th report to EPA, published in the **Federal Register** of November 14, 1986 (51 FR 41417), the ITC recommended with intent to designate that MTBE (also identified as 2-methoxy-2-methyl propane) (CAS No. 1634–04–4) be considered for health effects and chemical fate testing. In the ITC's 20th Report to EPA, published in the **Federal Register** of May 20, 1987 (52 FR 19020), MTBE was designated for response within 12 months. The ITC designated MTBE based on concerns of widespread human exposure to low-level fugitive emissions of MTBE at gasoline pumps and the lack of chronic health effects information. The health effects test recommended by the ITC was a chronic inhalation toxicity test including neurotoxic, hematologic, and oncogenic effects. The chemical fate test recommended was a monitoring study to determine typical concentrations of MTBE vapor at representative gasoline terminals and service stations.

II. Testing Consent Order Negotiations

Previous to the publication of "Procedures Governing Testing Consent Agreements and Test Rules Under the Toxic Substances Control Act" (51 FR 23706) on June 30, 1986, EPA made findings under TSCA section 4 as the basis for rulemaking in response to the ITC's designation of chemical substances for priority testing. A finding was made under either section 4(a)(1)(A) (with evidence of unreasonable risk of injury to health or to the environment) or section 4(a)(1)(B) (with evidence of substantial quantities being produced and significant or substantial exposure to health or the environment). EPA has amended the regulations for rulemaking to expedite the development of data for risk assessment by establishing the TSCA section 4 testing consent order process. The Consent Order is not based on a formal finding and expedites testing while retaining the same TSCA penalty provisions applicable under rulemaking.

In accordance with the procedures in 40 CFR 790.22, EPA held a public "focus meeting" on December 17, 1986, to discuss the ITC's testing recommendations for MTBE and to obtain comments. On February 3, 1987, a notice soliciting interested parties for the consent order negotiations was published in the **Federal Register** (52 FR 3343). The MTBE Health Effects Testing Task Force (MTBE Task Force) presented its review of chemical fate and health effects data at a public meeting on March 5, 1987. EPA's tentative testing decisions were presented in a public meeting on April 21, 1987.

Negotiations on a Testing Consent Order (Order) were initiated at a May 8, 1987, public meeting when producers of MTBE, represented by the MTBE Task

Force under the Oxygenated Fuels Association Inc., outlined their proposed testing program. The MTBE Task Force also listed items for discussion with the Agency. Subsequently, negotiation meetings were held on May 19 and July 14, 1987, to discuss the draft order. A comment resolution meeting was held October 1, 1987, to resolve questions on test protocols in the draft. On January 22, 1988, five MTBE manufacturers: Amoco Corporation; ARCO Chemical Company; Exxon Chemical Company, a Division of Exxon Corporation; Sun Refining and Marketing Company; and Texaco Chemical Company signed a Testing Consent Order with EPA. Under this Order the principal test sponsors agreed to conduct or provide for the conduct of the following health effects tests: An *in vivo* mammalian bone marrow cytogenetics test; a sex-linked recessive lethal assay in *Drosophila melanogaster*; a rodent dominant lethal assay; pharmacokinetics tests to relate oral, dermal, and inhalation routes of exposure; a 90-day inhalation subchronic test including: Neuropathology, motor activity and the functional observational battery tests; and inhalation developmental toxicity study in two species; and inhalation oncogenicity test in two species; and an inhalation two-generation reproduction and fertility effects study. The specific test standards to be followed and the testing schedule for each test are included in the Order. It is EPA's determination that this testing battery is more than adequate to evaluate MTBE for the effects identified by the ITC. Procedures for submitting study plans, modifying the Order, monitoring the testing and other provisions are also included in the Order as specified in 40 CFR 790.60.

III. Use and exposure

MTBE is a clear liquid with a vapor pressure of 245 mm/Hg at 25° C. MTBE is used almost exclusively as a blending component in high octane gasoline. Typical concentrations of MTBE in gasoline range from 2 to 8 percent by volume. EPA has approved up to 11 percent MTBE by volume (45 FR 67443; October 10, 1980). An estimated 3 to 13 percent of the gasoline sold in 1985, about 3 to 13 billion gallons, contained MTBE (Ref. 1).

Annual plant capacity of MTBE production was estimated at about 4 billion pounds in 1986. The growth rate in production of MTBE was estimated to be 19 percent per year from 1985 to 1990. However, between 1982 and 1985, production increased over 140 percent (Ref. 1).

The 1980 National Occupational Exposure Survey estimated 2,571 workers were exposed to MTBE in the work place (Ref. 2). This estimate only included: Life scientists, clinical laboratory technicians, and production testers. The life scientist and laboratory technician exposures would probably occur as a result of the relatively small amount of MTBE used in procedures to dissolve cholesterol gallstones and to extract metabolic organic acids. EPA estimates that as many as 35,000 more workers may be exposed during bulk loading, unloading, and shipment of MTBE-containing gasoline (Ref. 3). Gas station attendants and consumers who pump their own gasoline would also be exposed to MTBE vapor from MTBE-containing gasoline (Refs. 5 and 9).

Although the Occupational Safety and Health Administration (OSHA) has not established any standards for exposure to gasoline or MTBE, the American Conference of Governmental Industrial Hygienists (ACGIH) has established a Threshold Limit Value of 300 ppm (900 mg/m³) for gasoline (Ref. 3). Sun Refining and Marketing Company recommends an 8-hour time weighted average (TWA) exposure limit of 100 ppm (300 mg/m³) for MTBE (Ref. 10). However, Texaco Chemical Company recommends a limit of 200 ppm (600 mg/m³) for MTBE (Ref. 11).

Worker exposure to MTBE vapor measured in refineries has been generally less than 1 ppm (3 mg/m³) for an 8-hour TWA. The highest exposure level to MTBE vapor reported was a TWA of 33 ppm (100 mg/m³) and a short-term exposure of 45 ppm (135 mg/m³) (Ref. 4). Approximately 50 percent of the MTBE produced is shipped off-site before blending (Ref. 3). Short-term exposure to MTBE vapor during bulk loading and unloading operations has been estimated to be as high as 550 ppm (1,650 mg/m³) (Ref. 3). However, such high exposure could be decreased if engineering controls are used in the loading operations. No data were available from industry for MTBE vapor exposure during the loading, unloading, or shipping of MTBE.

Exposure to MTBE vapor during transfer of MTBE-containing gasoline has been estimated from gasoline vapor measurements, assuming 7 percent MTBE concentration by volume. During bulk loading and delivery of MTBE-containing gasoline, exposure to MTBE vapor was estimated to be short-term exposure of 8 ppm (23 mg/m³) for the truck drivers 98 percent of the time (Refs. 1 and 3). Service station attendants' exposure to MTBE vapor has been estimated to be as high as 8.6 ppm (31 mg/m³) for an 8-hour TWA (Ref. 1). Total MTBE vapor release can be calculated from volatile organic carbon (VOC) emissions estimated for gasoline (52 FR 31162; August 19, 1987). Assuming MTBE accounts for 8 to 11 percent of total VOC emissions from gasoline, MTBE vapor release would be 3 to 17 million kg/yr (Ref. 5).

MTBE vapor exposure *via* gasoline was the major concern expressed in the 19th ITC report. However EPA has an additional concern about MTBE contamination of ground water. Although only a few cases of ground water contamination are currently documented, the rapid growth in production, transport, and use of MTBE will probably contribute to an increase in incidents of contamination. The relatively recent appearance of MTBE in the market place has hampered the documentation of ground water contamination because laboratory analyses do not typically screen for this compound and gasoline is composed of more than 50 different hydrocarbon compounds (Ref. 9). MTBE is relatively water soluble (40,000 to 51,260 mg/L) compared to other gasoline components (Ref. 1). This solubility, coupled with the fact that an estimated 35 percent of the approximately 638,000 non-farm underground motor fuel tanks would not pass the EPA tightness test, indicates the potential ground water contamination problem (Ref. 1).

The largest identified population affected by MTBE-contaminated water was Rockaway Township in New Jersey, population 20,000 (Ref. 6). The level of MTBE contamination in the township wells ranged from 25 to 40 ppb and required aeration treatment before delivery to the township's residents. EPA has received requests for information on MTBE as a result of other well water contamination reports in New Jersey and New Hampshire (Ref. 7). A leaking underground storage tank in a rural area of Maine has contaminated household wells in the vicinity with MTBE concentrations as high as 690 ppb (Ref. 8). Maine and New Jersey have set a maximum contaminant level of 50 ppb for MTBE (Refs. 6 and 8).

IV. Testing Program

A. Chemical Fate

In the ITC's 19th Report to EPA (51 FR 41417), the ITC recommended that monitoring studies be conducted at sites where MTBE-containing gasoline is transferred. In comments submitted at the Focus Meeting, industry representatives claimed that worst-case exposures to MTBE from gasoline

vapors can be accurately calculated from existing data. As indicated in Unit III, exposure to MTBE vapor can be estimated from measurements of gasoline vapor and the proportion of MTBE in the gasoline mixture (Ref. 5). On August 19, 1987, EPA proposed systems to limit gasoline vapor emissions during refueling (52 FR 31162) and evaporative emissions (52 FR 31274). The implementation of these regulations would decrease levels of consumer exposure to MTBE vapors in service stations. Promulgation of these regulations is expected in 1989.

The Agency concluded that MTBE exposure in service stations can be estimated from existing data. The number of parameters affecting a vapor monitoring study would probably yield highly variable results. It would be difficult to obtain nationally representative data. Currently the Agency believes that it can reasonably rely on models to conservatively estimate worker exposure as presented in Unit III (Ref. 3). However, changes in gasoline fuel composition in the future may require a re-evaluation of this estimate.

B. Health Effects

The 19th ITC Report recommended a chronic inhalation toxicity test including neurotoxic, hematologic and oncogenic effects. In response to the TSCA section 8(d) Health and Safety Data Reporting Rule for MTBE, triggered by the ITC recommendation, the following studies were submitted to EPA: two inhalation developmental toxicity studies (one in rats and one in mice); and inhalation single generation reproduction/fertility study in rats; acute toxicity data; gene mutation and chromosomal aberration studies; two 90-day inhalation toxicity studies; and a dermal sensitization study. Several studies were submitted which used gasoline mixtures containing different amounts of MTBE.

The Agency has reviewed these studies and determined that additional testing is necessary to determine whether the distribution and use of MTBE presents an unreasonable risk of injury to health. As discussed above, producers of MTBE, represented by the MTBE Task Force, have agreed to perform the necessary tests to determine the effects, if any, associated with the use and distribution of MTBE (see Unit II).

The testing conducted under this Order will be used by EPA to determine the risk of adverse health effects associated with the use and distribution of MTBE.

V. Export Notification

The issuance of this Testing Consent Order subjects any person who exports or intends to export MTBE to the export notification requirements of section 12(b) of TSCA. The specific requirements are listed in 40 CFR Part 707. In the June 30, 1986, Interim Final Rule (51 FR 23706) establishing the Testing Consent Order process, EPA added and reserved Subpart C of Part 799 for a listing of testing consent orders issued by EPA. This listing serves as notification to persons who export or who intend to export chemical substances or mixtures which are the subject of testing consent orders that 40 CFR Part 707 applies.

VI. Rulemaking Record

EPA has established a record for this rule (docket number OPTS–42098). This record contains the basic information considered by the Agency in developing this rule.

A. Supporting Documentation

(1) Testing Consent Order for Methyl tert-Butyl Ether.

(2) **Federal Register** notices pertaining to this rule consisting of:

(a) Notice containing the ITC recommendation with intent-to-designate MTBE (51 FR 41417; November 14, 1986).

(b) Rules requiring TSCA section 8(a) and 8(d) reporting on MTBE (51 FR 41328; November 14, 1986).

(c) Notice soliciting interested parties for developing a Testing Consent Order for MTBE (52 FR 3343; February 3, 1987).

(d) Notice containing the ITC designation of MTBE for response within 12 months (52 FR 19020; May 20, 1987).

(e) Notice of procedures governing testing consent agreements and test rules under the Toxic Substances Control Act (51 FR 23706; June 30, 1986).

(f) Notice proposing refueling emission regulations for gasoline fueled light-duty vehicles and trucks and heavy-duty vehicles (52 FR 31162; August 19, 1987).

(g) Notice proposing volatility regulations for gasoline and alcohol blends sold in 1989 and later calendar years and control of air pollution from new motor vehicles and new motor vehicle engines: evaporative emissions regulations for 1990 and later model year gasoline-fueled light-duty vehicles, light-duty trucks and heavy-duty vehicles (52 FR 31274; August 19, 1987).

(h) Notice on fuels and fuel additives; definition of substantially similar (45 FR 67443; October 10, 1980).

(3) Comunications consisting of:

(a) Written letters

(b) Contact reports of telephone conversations

(c) Meeting summaries

(4) Reports—published and unpublished materials.

B. References

(1) Neal, M.W., Anatra, M., Jacobson, R.A. *et al.* Draft Final Technical Support Document Methyl tert-Butyl Ether. Contract No. 68–02–4209. Prepared by Syracuse Research Corporation, Syracuse, New York for the Environmental Protection Agency, Office of Toxic Substances, Washington, DC. (February 26, 1987).

(2) National Occupational Exposure Survey (1980 to 1983). Department of Health and Human Services, National Institute for Occupational Safety and Health, Cincinnati, OH. (1984).

(3) U.S. Environmental Protection Agency (USEPA). Worker Exposure Assessment of Methyl tert-Butyl Ether. Environmental Protection Agency, Chemical Engineering Branch, Office of Toxic Substances, Washington, DC. (May 7, 1987).

(4) Texaco Chemical Company. TSCA section 8(d) submission 86–870000242. Memorandum from R.T. Richards to: F.E. Bentley, R.J. Breglia, R.A. Cox, *et al.* (November 24, 1986).

(5) Furey, R.L., and King, J.B. "Evaporative and exhaust emissions from cars fueled with gasoline containing ethanol or methyl tert-butyl ether". Society of Automotive Engineers, Inc. Paper 800261 presented at the International Congress and Exposition, Detroit, Michigan. (February, 1980).

(6) McKinnon, R.J., and Dyksen, J.E. "Removing organics from ground water through aeration plus GAC." *Journal of the American Water Works Association* 76:42–47. (1984).

(7) USEPA. Memorandum from F.D. Kover to M.B. Cooke and M. Mlay. (May 23, 1986).

(8) Garrett, P., Moreau, M., and Lowry, J.D. "Methyl tertiary butyl ether as a ground water contaminant". Proceedings of Petroleum Hydrocarbons and Organic Chemicals in Ground Water Conference. NWWA–API pg. 227–238. (November 1986).

(9) Tironi, G., Nebel, G.J., and Williams, R.L. "Measurement of vapor exposure during gasoline refueling". Society of Automotive Engineers, Inc. Paper 860087 presented at the International Congress and Exposition, Detroit, Michigan. (February, 1986).

(10) Sun Refining and Marketing Company, Philadelphia, PA 19102. Letter from Brian C. Davis to Beth Anderson, Environmental Protection Agency, Office of Toxic Substances, Washington, DC. (February 10, 1987).

(11) Texaco Chemical Company. TSCA section 8(d) submission 86–870000239. Memorandum from J.E. Wiki to M.M. Simer (November 13, 1986).

Confidential Business Information (CBI), while part of the record, is not available for public review. A public version of the record, from which CBI has been deleted, is available for inspection in the OTS Public

Information Office, Rm. NE–G004, 401 M Street SW., Washington, DC from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

List of Subjects in 40 CFR Part 799

Testing procedures, Environmental protection, Hazardous substances, Chemicals, Chemical export, Recordkeeping and reporting requirements.

Dated: March 16, 1988.

J.A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR Part 799 is amended as follows:

PART 799—[AMENDED]

1. The authority citation continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. Section 799.5000 is amended by revising the table to read as follows:

§ 799.5000 Testing consent orders.

* * * * *

CAS Number	Substance or mixture name	Testing	FR citation
328–84–7	3,4-Dichlorobenzotrifluoride	Environmental effects	June 23, 1987
		Chemical fate	June 23, 1987
1634–04–4	Methyl tert-butyl ether	Health effects	March 31, 1988.

[FR Doc. 88–7063 Filed 3–30–88; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8370

[AA–340–08–4333–02; Circular No. 2605]

Use Authorization; Amendment to the Appeals Provisions of the Regulations for Special Recreation Permits Other Than on Developed Sites

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking amends § 8372.6(b) to clarify that petitions for a stay of decisions relating to the issuance of a permit for a competitive use or event on the public lands shall be filed in the Office of Hearing and Appeals, Department of the Interior.

EFFECTIVE DATE: May 2, 1988.

ADDRESS: Inquiries and suggestions should be sent to: Director (340), Bureau of Land Management, Room 3360, Main Interior Bldg., 1800 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Richard Traylor, (202) 343–9353.

SUPPLEMENTARY INFORMATION: A proposed rulemaking published in the Federal Register on September 16, 1985 (50 FR 37555), would have amended the provisions of § 8372.6(b) of Part 8370 to allow only decisions on competitive events or uses to remain in effect pending appeal unless the Secretary rules otherwise.

The proposed rulemaking also provided that a petition for a stay shall be filed with the Director, Office of Hearings and Appeals. This Office is part of the Office of the Secretary of the Interior.

The proposed rulemaking requested that public comments be submitted by November 15, 1985. During this comment period, 9 comments were received: 3 from offices of the Federal Government, 4 from recreation associations, and 2 from individuals. All of the comments objected to the provision that only decisions relating to competitive events would remain effective pending appeal unless the Secretary ruled otherwise. The comments pointed out that both noncompetitive events and decisions denying permits for management purposes would be equally subject to frivolous appeals, effectively "hamstringing" the management of the public lands with regard to recreation and environmental protection. After consideration of the comments, this provision in the proposed rulemaking has not been adopted and the existing regulations remain in effect. This final rulemaking does, however, clarify that petitions for stay of decisions shall be filed with the Office of Hearings and Appeals.

The principal author of this final rulemaking is Richard Traylor of the Division of Recreation, Cultural and Wilderness Resources, assisted by the staff of the Division of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this final rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The changes made by this final rulemaking will equally affect all members of the public affected by a decision of the Bureau of Land Management regarding the issuance of special recreation permits other than on developed sites.

There are no additional information collection requirements contained in this final rulemaking that require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in 43 CFR Part 8370

Public land—recreation, Recreation areas, Surety bonds.

Under the authority of 43 U.S.C. 1201, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), the Oregon and California Railroad and Coos Bay Wagon Road Grant Land Act (43 U.S.C. 1181a), the Act of September 15, 1960, as amended (16 U.S.C. 670g–n), the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460*l*–6a) and the National Trails System Act (16 U.S.C. 1241 *et seq.*), Subpart 8372, Part 8370, Group 8300, Subchapter H, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below:

PART 8370—[AMENDED]

1. The authority citation for part 8370 is revised to read:

Authority: 16 U.S.C. 460*l*–6a, 16 U.S.C. 670(g–n), 16 U.S.C. 1271–1287, 6 U.S.C. 1241–1249, 43 U.S.C. 1181(a), 43 U.S.C. 1201, 43 U.S.C. 1701 *et seq.*

2. Section 8372.6(b) is revised to read:

§ 8372.6 Appeals.

* * * * *

(b) All decisions of the authorized officer under this part shall remain effective pending appeal unless the Secretary rules otherwise. Petitions for stay of decisions shall be filed with the Office of Hearings and Appeals, Department of the Interior.

March 22, 1988.

James E. Cason,

Deputy Assistant Secretary of the Interior.

[FR Doc. 88-7097 Filed 3-30-88; 8:45 am]

BILLING CODE 4310-84-M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 507 and 552

[Acquisition Circ. AC-87-1; Supp. 2]

General Services Administration Acquisition Regulation; Comparison of Retirement Costs Under OMB Circular A-76

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Temporary regulation.

SUMMARY: This supplement to the General Services Administration Acquisition Regulation, Acquisition Circular AC-87-1 extends the expiration date to March 8, 1989. The intended effect is to extend the policies and procedures as established in AC-87-1, which temporarily implemented the Office of Management and Budget (OMB) Transmittal Memorandum No. 4 which revised OMB Circular A-76 procedures for calculation and comparison of retirement costs in GSA pending a revision to the Federal Acquisition Regulation.

DATES: *Effective Date:* March 9, 1988.

Expiration Date: March 8, 1989, unless cancelled earlier or extended.

FOR FURTHER INFORMATION CONTACT: Ms. Marjorie Ashby, Office of GSA Acquisition Policy and Regulations (VP), (202) 523-3822.

SUPPLEMENTARY INFORMATION: The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule. When AC-87-1 was originally issued, the GSA certified that under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) that the document would not have a significant economic effect on a substantial number of small entities. This rule will not have a significant impact because of the limited number of solicitations subject to the requirement (approximately 21 in the next year).

The information collection requirements contained in this rule have been approved by OMB under the Paperwork Reduction Act and assigned OMB Control No. 0348-0036.

List of Subjects in 48 CFR Parts 507 and 552.

Government procedure.

PARTS 507 AND 552—[AMENDED]

1. The authority citation for 48 CFR Parts 507 and 552 continues to read as follows:

Authority: 40 U.S.C. 486(c)

2. 48 CFR Parts 507 and 552 are amended by adding the following supplement to Acquisition Circular AC-87-1:

General Services Administration Acquisition Regulation, Acquisition Circular AC-87-1, Supplement No. 2

March 21, 1988.

To: All GSA contracting activities.

Subject: Comparison of retirement costs under OMB Circular A-76.

1. *Purpose.* This supplement extends the expiration date of General Services Administration Acquisition Regulation Acquisition Circular AC-87-1.

2. *Effective:* March 9, 1988.

3. *Expiration date:* The General Services Administration Aquisition Regulation Acquisition Circular AC-87-1 and this supplement will expire on March 8, 1989, unless cancelled earlier.

Patricia A. Szervo,

Associate Administrator for Acquisition Policy.

[FR Doc. 88-6969 Filed 3-30-88; 8:45 am]

BILLING CODE 6820-61-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1003 and 1043

[Ex Parte No. MC-5 (Sub-8)]

Property Broker Security for the Protection of the Public

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: After a review of the initial comments received in this proceeding and or desire to provide brokers with an alternative to filing a surety bond, Form BMC 84, the Commission is amending 49 CFR 1043.4 to adopt procedures for brokers to file other evidence of security. Because brokers cannot operate without a surety bond on file with the Commission and because many brokers have had serious difficulties obtaining or renewing surety bonds, we adopted the proposed changes as interim rules at 52 FR 27,351 (7-21-87) as corrected at 52 FR 28,476 (7-30-87). The interim rules immediately authorized the filing of a trust fund agreement as an alternative security. Comments were subsequently received and evaluated. Modifications have been made to the interim rules based on these comments. The Commission now adopts final rules which will permit the filing of a $10,000 surety bond or $10,000 trust fund agreement. The interim rules will remain in effect until the effective date of the final rules.

DATES: The rules are effective April 30, 1988.

FOR FURTHER INFORMATION CONTACT:

Sidney L. Strickland, Jr., (202) 275-7614

or

Patricia B. Kuhlmann, (202) 275-7819

[TDD for hearing impaired: (202) 275-1721]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., Room 229, 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).

Energy and Environmental Considerations

This action does not appear to affect significantly either the quality of the human environment or the conservation of energy resources.

Regulatory Flexibility Analysis

The Commission certifies that adoption of these final rules will have a significant impact on a substantial number of small entities. However, we expect the economic impact will be beneficial, since the costs to brokers for complying with our security requirements should not increase while availability of required coverage will increase.

The prescribed trust fund agreement is being submitted to OMB for approval. We will continue to accept agreements which comply with this decision pending OMB approval of our prescribed agreement.

List of Subjects

49 CFR Part 1003

Brokers, Motor carriers, Securities, Surety bonds, Trust fund agreements.

49 CFR Part 1043

Insurance, Motor carriers, Surety bonds, Trust fund agreements.

This action is taken under the authority of 49 U.S.C. 10101, 10321, 10927, 11701, and 5 U.S.C. 553.

Decided: March 14, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Sterrett, Simmons, and Lamboley. Commissioner Sterrett was absent and did not participate.

Noreta R. McGee,

Secretary.

Title 49 of the CFR is amended as follows:

PART 1003—LIST OF FORMS

1. The authority citation for Part 1003 continues to read as follows:

Authority: 5 U.S.C. 551(a), 5 U.S.C. 553(1)(c), 49 U.S.C. 10321.

2. Section 1003.3 is revised by inserting the following form entry after the entry for Form B.M.C. 84 and before the entry for Form B.M.C. 90 (Rev. 1982):

§ 1003.3 [Amended]

* * * * *

B.M.C. 85.

Broker Trust Fund Agreement under 49 U.S.C. 10927 or Notice of Cancellation of the Agreement.

PART 1043—SURETY BONDS AND POLICIES OF INSURANCE

3. The authority citation for Part 1043 continues to read as follows:

Authority: 49 U.S.C. 10101, 10321, 10927, 11701; 5 U.S.C. 553.

4. Section 1043.4 is revised to read as follows:

§ 1043.4 Property broker surety bond or trust fund.

(a) *Security.* A property broker must have a surety bond or trust fund in effect for $10,000. The Commission will not issue a property broker license until a surety bond or trust fund for the full limits of liability prescribed herein is in effect. The broker license shall remain valid or effective only as long as a surety bond or trust fund remains in effect and shall ensure the financial responsibility of the broker.

(b) *Evidence of Security.* Evidence of a surety bond must be filed using the Commission's prescribed Form BMC 84. Evidence of a trust fund with a financial institution must be filed using the Commission's prescribed Form BMC 85. The surety bond or the trust fund shall ensure the financial responsibility of the broker by providing for payments to shippers or motor carriers if the broker fails to carry out its contracts, agreements, or arrangements for the supplying of transportation by authorized motor carriers.

(c) *Financial Institution*—when used in this section and in forms prescribed under this section, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, shall mean—Each agent, agency, branch or office within the United States of any person, as defined by the Interstate Commerce Act, doing business in one or more of the capacities listed below:

(1) An insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h));

(2) A commercial bank or trust company;

(3) An agency or branch of a foreign bank in the United States;

(4) An insured institution (as defined in section 401(a) of the National Housing Act (12 U.S.C. 1724(a));

(5) A thrift institution (savings bank, building and loan association, credit union, industrial bank or other);

(6) An insurance company;

(7) A loan or finance company; or

(8) A person subject to supervision by any state or federal bank supervisory authority.

(d) *Forms and Procedures*—(1) *Forms for broker surety bonds and trust agreements.* Form BMC–84 broker surety bond will be filed with the Commission for the full security limits under subsection (a); or Form BMC–85 broker trust fund agreement will be filed with the Commission for the full security limits under paragraph (a) of this section.

(2) *Broker surety bonds and trust fund agreements in effect continuously.* Surety bonds and trust fund agreements shall specify that coverage thereunder will remain in effect continuously until terminated as herein provided.

(i) *Cancellation notice.* The surety bond and the trust fund agreement may be cancelled as only upon 30 days' written notice to the Commission, on prescribed Form BMC 36, by the principal or surety for the surety bond, and on prescribed Form BMC 85, by the trustor/broker or trustee for the trust fund agreement. The notice period commences upon the actual receipt of the notice at the Commission's Washington, DC office.

(ii) *Termination by replacement.* Broker surety bonds or trust fund agreements which have been accepted by the Commission under these rules may be replaced by other surety bonds or trust fund agreements, and the liability of the retiring surety or trustee under such surety bond or trust fund agreements shall be considered as having terminated as of the effective date of the replacement surety bond or trust fund agreement. However, such termination shall not affect the liability of the surety or the trustee hereunder for the payment of any damages arising as the result of contracts, agreements or arrangements made by the broker for the supplying of transportation prior to the date such termination becomes effective.

(3) *Filing and copies.* Broker surety bonds and trust fund agreements must be filed with the Commission in duplicate.

[FR Doc. 88–7032 Filed 3–30–88; 8:45 am]

BILLING CODE 7035–01–M

Proposed Rules

Federal Register
Vol. 53, No. 62
Thursday, March 31, 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 THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Public Comment Period and Opportunity for Public Hearing on an Amendment to the Iowa Permanent Regulatory Program

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

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing procedures for a public comment period and for a public hearing on the adequacy of amendments submitted by the State of Iowa to amend its permanent regulatory program (hereinafter referred to as the Iowa program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The proposed amendments to Iowa's regulations are intended to render Iowa's regulations consistent with the revised Federal regulations contained in 30 CFR Chapter VII. The proposed regulation changes rescind in their entirety the State's existing rules related to the regulatory program for surface coal mining and reclamation operations. These rescinded rules are replaced by rules that adopt by reference most of the Federal regulations at 30 CFR Part 700 through Part 850.

This notice sets forth the times and locations that the Iowa program and proposed amendments to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments and procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments relating to Iowa's proposed modification of its program not received on or before 4:00 p.m. c.s.t. on May 2, 1988 will not necessarily be considered in the decision process. A public hearing on the adequacy of the amendments will be held upon request on April 25, 1988. Any person interested in making an oral or written presentation at the public hearing should contact Mr. William J. Kovacic at the Kansas City Field Office by the close of business on or before April 15, 1988. If no one has contacted Mr. Kovacic to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Kovacic, a public meeting may be held in place of the hearing. If possible, a notice of the meeting will be posted in advance at the locations listed under "**ADDRESSES**."

ADDRESSES: Written comments should be mailed or hand delivered to Mr. William J. Kovacic, Director, Kansas City Field Office, Office of Surface Mining Reclamation and Enforcement, 1103 Grand Avenue, Room 502, Kansas City, Missouri 64106. Copies of the Iowa program, the proposed amendments to the program, and all written comments received in response to this notice will be available for public review at the Kansas City Field Office, OSMRE Headquarters Office, and the office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m. c.s.t., excluding holidays. Each requester may receive, free of charge, one copy of the proposed amendments by contacting OSMRE's Kansas City Field Office.

Kansas City Field Office, Office of Surface Mining Reclamation and Enforcement, 1103 Grand Avenue, Room 502, Kansas City, Missouri 64106; Telephone: (816) 374–5527.

Office of Surface Mining Reclamation and Enforcement, 1100 L Street NW., Room 5131, Washington, DC 20240; Telephone: (202) 343–5492.

Department of Agriculture and Land Stewardship, Division of Soil Conservation, Wallace State Office Building, East 9th and Grand Streets, Des Moines, Iowa 50319; Telephone: (515) 281–6142.

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

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Interior approved the Iowa program on January 21, 1981 (46 FR 5885). Information pertinent to the general background and revisions to the permanent program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Iowa program can be found in the January 21, 1981 **Federal Register** (46 FR 5885). Subsequent actions concerning proposed amendments and the conditions of approval are codified at 30 CFR 915.10, 915.15 and 915.20.

II. Submission of Amendments

On February 9, 1988 (Administrative Record No. IA–305) the State of Iowa submitted to OSMRE amendments to its approved regulatory program. The proposed changes would rescind rules at 780—Chapter 4 within the Soil Conservation Department of the Iowa Administrative Code (IAC) and adopt Chapters 140 through 149 within the Agriculture and Land Stewardship Department of the IAC relating to the State regulatory program for surface coal mining and reclamation operations.

The Iowa Division of Soil Conservation (DSC) has incorporated by reference into the Iowa program, applicable sections of the July 1, 1987 Code of Federal Regulations (CFR) at 30 CFR Part 700 through Part 850. Iowa has made additions to some of the references in the Federal regulations in order to address concerns specific to the State of Iowa. Iowa has also amended Chapter 149 on public hearings and contested cases that gives procedures specific to the State of Iowa and does not incorporate the Federal regulations by reference.

These revisions are proposed by the State of Iowa in response to a letter (Administrative Record No. IA–280) under 30 CFR Part 732 from OSMRE dated August 1, 1986 concerning regulatory reform. The revisions are also in response to a letter (Administrative Record No. IA–307) under 30 CFR Part 732 from OSMRE dated June 9, 1987 concerning the protection of historic properties during coal exploration as required in the final rule published by OSMRE in the **Federal Register** dated February 10, 1987 (52 FR 4244).

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17, OSMRE is now seeking comment on whether the amendments proposed by Iowa satisfy the requirements of 30 CFR 732.15 for the approval of State program amendments. If the amendments are deemed adequate, they will become part of the Iowa program.

Written Comments

Written comments should be specific, pertain only to the issue proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than Kansas City, Missouri, will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by 4:00 p.m. c.s.t. April 15, 1988. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSMRE officials to prepare appropriate questions.

The public hearing will continue on the specified date with all persons scheduled to comment being heard first, and those persons present in the audience who wish to comment being heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSMRE representatives to discuss the proposed amendments may request a meeting at the OSMRE office listed under "**ADDRESSES**" by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT.**" All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under "**ADDRESSES.**" A written summary of each meeting will be made a part of the Administrative Record.

List of Subjects in 30 CFR Part 915

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

Date: March 17, 1988.

Raymond L. Lowrie,

Assistant Director, Western Field Operations.

[FR Doc. 88-7037 Filed 3-30-88; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 931

New Mexico Permanent Regulatory Program; Reopening of Comment Period

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

ACTION: Reopening and extension of public comment period.

SUMMARY: OSMRE is reopening the period for review and public comment on the substantive adequacy of program amendments submitted by the State of New Mexico to modify 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 hydrologic balance, disposal of noncoal waste, inspection and enforcement, and backfilling and regrading (rills and gullies). OSMRE is reopening the comment period because the State has made revisions to the proposed amendments and submitted clarifying statements regarding the amendments since OSMRE announced receipt of the original proposed amendments in the July 28, 1987, **Federal Register.**

DATES: Written comments not received on or before 4:00 p.m. April 15, 1988, will not necessarily be considered in the Director's decision to approve or disapprove the amendments.

ADDRESSES: Written comments should be mailed or hand-delivered to: Mr. Robert H. Hagen, Field Office Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 625 Silver Avenue SW., Suite 310, Albuquerque, NM 87102.

Copies of the New Mexico program, the proposed amendments to the program, and all written comments received in response to this notice will be available for review at the OSMRE offices and the office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays. Each requester may receive, free of charge, one copy of the proposed amendments by contacting the OSMRE Albuquerque Field Office listed under **ADDRESSES.** The aforementioned documents are available for review at the following locations:

Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 625 Silver Avenue SW., Suite 310, Albuquerque, NM 87102, Telephone: (505) 766-1486;

Office of Surface Mining Reclamation and Enforcement, Room 5131, 1100 L Street NW., Washington, DC 20240, Telephone: (202) 343-5492; and

New Mexico Energy and Minerals Department, Mining and Minerals Division, 525 Camino de los Marquez, Santa Fe, NM 87501 Telephone: (505) 827-5970.

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

SUPPLEMENTARY INFORMATION:

I. Background

Information regarding the general background for the New Mexico State Program, including the Secretary's findings, the disposition of comments, and detailed explanation of the conditions of approval of the New Mexico program can be found in the December 31, 1980, **Federal Register** (45 FR 86459).

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 amendments, and required amendments, can be found at 30 CFR 931.11, 931.12, 931.13, 931.15, and 931.16.

II. Proposed Amendments

By letter dated June 17, 1987, New Mexico submitted proposed amendments to the New Mexico program for OSMRE's review and approval (Administrative Record No. NM-356). OSMRE published a notice in the **Federal Register** announcing receipt of the proposed amendments to the New Mexico program on June 19, 1987, and invited public comment on the adequacy of the proposed amendments (52 FR 28163, Administrative Record No. NM-

372) After reviewing the proposed amendments and all comments received, OSMRE notified New Mexico by letter dated November 10, 1987, of several provisions in its proposal that appeared to be inconsistent with the Federal Regulations (Administrative Record No. NM–390). By letter dated February 18, 1988, New Mexico provided clarification of the amendment contents (Administrative Record No. NM–393). These proposed changes at CSMC Rule 80–1, sections 20–42(a) (1), (3), (5), (6)(ii), and (8); 20–42 (b)(1) and (b)(2); 20–89(c); 29–11 (b) and (c); and 20–106 (a), (b), and (c) pertain to hydrologic balance, disposal of noncoal waste, inspection and enforcement, and backfilling and regrading (rills and gullies), respectively. Due to the changes in the proposed amendments, OSMRE is reopening and extending the comment period to allow the public an opportunity to comment on the additional material.

The full text of the proposed program amendments and subsequent clarification submitted by New Mexico is available for public inspection at the locations listed under "**ADDRESSES**," or a copy of the proposed amendments and subsequent clarification can be obtained from the OSMRE Albuquerque Field Office as explained under "**ADDRESSES**."

The Director is seeking public comment on the adequacy of these proposed amendments. If OSMRE finds the amendments to be no less stringent than SMCRA and no less effective than the Federal regulations, OSMRE will approve them and they will become part of the New Mexico program.

III. Written Comments

Written comments on the issues proposed in this rulemaking should be specific, pertain only to the issues proposed, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the OSMRE Albuquerque Field Office will not necessarily be considered and included in the Administrative Record for this proposed rulemaking.

List of Subjects in 30 CFR Part 931

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

Date: March 18, 1988.

Raymond L. Lowrie,

Assistant Director, Western Field Operations.

[FR Doc. 88–7038 Filed 3–30–88; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Cleveland REG 87–02]

Safety Zone; Old River and Cuyahoga River, Cleveland, OH

AGENCY: Coast Guard, DOT.

ACTION: Proposed regulation; extension of comment period.

SUMMARY: The Captain of the Port, Cleveland, is extending the comment period until June 8, 1988, to receive comments on this proposed regulation to create ten safety zones in the Old River and the Cuyahoga River. This action is being taken at the request of several commenters who attended a public hearing on March 7, 1988. They have expressed a desire to form a working committee to examine the Cuyahoga River situation, and submit a joint proposal to the Captain of the Port regarding the proposed rulemaking.

DATE: Written comments may be submitted on or before June 8, 1988.

ADDRESSES: (a) The mailing address for comments is the U.S. Coast Guard Marine Safety Office, 1055 E. 9th St., Cleveland, OH 44114. Comments may also be hand-delivered to this address. (b) All comments received will be available for examination at the above address.

FOR FURTHER INFORMATION CONTACT: CDR John H. Distin, Captain of the Port, Cleveland (216) 522–4406.

SUPPLEMENTARY INFORMATION: The proposed rulemaking was published in the **Federal Register** on December 3, 1987 at page 45974 and was distributed to each of the affected entities. The response to the proposed rulemaking indicated that the comment period should be extended and a public hearing scheduled. The public hearing and comment period extension were announced in the **Federal Register** on February 8, 1988 at page 3609. A public hearing was held on March 7, 1988, at which twenty-six commenters spoke. Several commenters expressed a desire to form a working group to examine the Cuyahoga River situation, and submit an alternative to the proposed regulations. The comment period, therefore, has again been extended until June 8, 1988 in order to permit the comments of this working group to be entered into the record and considered as an alternative. All comments received will be considered before final action is taken on the proposed regulation.

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

Dated: March 11, 1988.

J.H. Distin,

Commander, U.S. Coast Guard, Captain of the Port, Cleveland, OH.

[FR Doc. 88–7092 Filed 3–30–88; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[FRL–3355–9]

Approval and Promulgation of Implementation Plans; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: In response to EPA's call for a plan revision under section 110(a)(2)(H) of the Clean Air Act, the state of Kansas submitted a revision to the carbon monoxide (CO) plan for Wichita, Kansas, on Februry 28, 1985. Included in the plan revision are transaportation control measures (TCM) and a request to redesignate the Wichita nonattainment area to attainment. The state submitted air quality data and modeling to support the area redesignation. EPA proposed approval of that submittal on December 20, 1985 (50 FR 51887). However, the state withdrew the redesignation request because the CO standard was exceeded in March 1986.

Today's action reproposes approval of the Wichita CO state implementation plan (SIP) revision which includes two new TCMs adopted by the city of Wichita. These new TCMs are a computerized signalization system for downtown Wichita and a downtown overpass over Kellogg Avenue. These TCMs replace the left-turn ban contained in the February 28, 1985, submittal. This action also withdraws the proposal to redesignate the Wichita area to attainment.

EFFECTIVE DATE: Comments must be received no later than May 2, 1988.

ADDRESSES: Copies of the state submission are available for inspection during normal business hours at the following locations: Environmental Protection Agency, Region VII, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and Kansas Department of Health and Environment, Bureau of Air Quality and Radiation Control, Forbes Field, Topeka, Kansas 66620.

FOR FURTHER INFORMATION CONTACT: Robert J. Chanslor at (913) 236-2893; FTS 757-2893.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8964), EPA designated a portion of Wichita, Kansas, nonattainment with respect to the CO primary National Ambient Air Quality Standard as required by section 107(d) of the Clean Air Act, as amended in 1977.

The state submitted an approvable CO plan for Wichita on April 16, 1981. This plan projected attainment by December 31, 1982, as required under the Act. Since there were no significant stationary CO sources in Wichita, some form of TCMs was required to reduce CO concentrations enough to meet the standard. The plan contained 11 TCMs. These measures included plans to improve traffic flow; an improved transit system; a voluntary inspection and maintenance (I/M) program; traffic signal retiming to speed up traffic flow; and on-street parking restrictions. On January 22, 1982, EPA approved this plan (47 FR 3113).

On February 3, 1983 (48 FR 4972), EPA identified Wichita, Kansas, as a nonattainment area unlikely to attain the CO standard by the December 31, 1982, attainment date. This determination was based upon air quality data from 1980, 1981, and 1982. Violations were found in each of those years.

On February 29, 1984, EPA notified the state of Kansas under authority of section 110(a)(2)(H) of the Act, that the CO State Implementation Plan (SIP) for Wichita was substantially inadequate to attain the CO standard. EPA extended the time required under section 110(c)(1)(C) for plan revision to one year. EPA requested that the state submit a schedule for plan development within 60 days of the date of notification. EPA received that schedule on May 23, 1984.

In response to the call for a SIP revision, the state of Kansas submitted a revised CO SIP for Wichita on February 28, 1985. The plan submittal contained a commitment to continue the voluntary I/M program through 1986; a TCM to improve traffic flow in the downtown area; a contingency plan for additional TCMs if additional CO violations should be found; and a request to redesignate the CO nonattainment areas as attainment. Additionally, the plan revision contained a contractor's report showing that the CO standard would be attained at the special purpose monitor (SPM) location by 1987 because of projected automobile emission reductions expected from the Federal Motor Vehicle Pollution Control Program, and air quality data from two other monitor locations showing no CO violations in 1983 and 1984. The contractor's study report was included as part of the attainment demonstration.

The redesignation was supported by air quality data from three monitor locations in Wichita and modeling data which projected attainment had been achieved in 1984 and indicated continued attainment through 1986. The modeling also predicted that the CO standard could be attained by 1987 with reliance on only the Federal Motor Vehicle Emission Control Program to reduce motor vehicle CO emissions. Since the 1987 attainment date was not as expeditious as practicable, the city of Wichita instituted an additional TCM and continued the voluntary I/M program through 1986. Modeling for the Wichita nonattainment area used state-of-the-art methods for CO; i.e., MOBILE 3 and CALINE 3 with proper queuing considerations.

EPA proposed approval of the Wichita CO SIP revision and the redesignation request in the **Federal Register** on December 20, 1985 (50 FR 51887). The basis for the proposed approval was that the additional TCM and the continuance of the voluntary I/M program were added assurance of further reduced CO emissions in downtown Wichita. The CO air quality data from the neighborhood site and the area site showed no violations in 1983 or 1984. The special purpose moitor (SPM) site showed no violations in 1984 and modeling predicted no violation in 1984, 1985, or 1986 and the SPM site. No violations were expected for 1985. EPA believed the redesignation policy criteria had been satisified. EPA believed that the CO standard had been attained in Wichita and that the TCM in the plan revision would provide for maintenance of the standard. However, in its December 20, 1985, proposed rulemaking, EPA included a caveat that final approval of the plan and promulgation of the redesignation to attainment would depend upon continued monitored data showing no violations during the period prior to final rulemaking. EPA received no public comments on that proposed rulemaking.

On January 14, 1986, EPA was advised that the Kansas Department of Health and Environment (KDHE) invalidated the fourth quarter 1984 CO data from the SPM site. Those data were invalidated upon finding that the CO monitor was malfunctioning. However, quality-assured CO data for 1985 show four quarters with no violation. Likewise, no violations were found at either of the two other monitor locations. Eight consecutive quarters of CO data were expected to be available by December 31, 1986.

The state of Kansas advised EPA on May 14, 1986, that since exceedances of the eight-hour CO standard occurred during March 1986, the data do not support redesignation of the area. Also, the state advised EPA that the SPM operation had ceased on April 30, 1986, and that a new site was being selected. This monitor had been located in vacant space in a privately owned building. The building owners requested removal of the monitor in order to lease the space. Because recent data show that the CO standard was violated at the SPM and EPA stated that its proposal to accept the state's redesignation request was predicated on a continued showing that there are no violations in the CO nonattainment area prior to final action, EPA has determined that a redesignation is not appropriate. EPA withdraws the redesignation proposal because the state withdrew its redesignation request on May 14, 1986.

With the exception of on-street parking restrictions, all of the Part D Plan TCMs in the 1981 SIP have been completed. As discussed above, the modeling submitted with the 1985 CO SIP revision projected attainment of the standard without additional TCMs; thus, the parking ban seemed unnecessary for attainment of the CO standard. The last TCM completed was the traffic signal retiming. That program was completed in 1984. EPA believes that the TCMs have contributed significantly to the CO emissions reductions that have occurred. The voluntary I/M program continued through 1986.

On September 3, 1987, the KDHE submitted supplemental information applicable to the Wichita CO SIP. The submittal includes two TCMs adopted by the Wichita City Council. These new TCMs are: (1) A computerized signalization system for downtown Wichita, and (2) a downtown overpass over Kellogg Avenue. These new TCMs replace the left-turn ban contained in the February 28, 1985, submittal. The downtown overpass is expected to reduce street traffic in the central business district by approximately two-thirds of the current 40,000 vehicles per day. The computerized signalization should further enhance traffic flow in the central business district.

Among the TCMs in the SIP approved by EPA in 1982 was a traffic signalization project. CO air quality improvements were measured after completion of that project. The second maximum CO value at the SPM in 1982 was 15.1 mg/m^3; in 1983 this value was

11.5 mg/m³; and in 1984 this value was 8.5 mg/m³. The number of violations for these same years were 9, 6, and 0, respectively. Future reductions may be smaller, but the new computerized signalization system should further enhance CO air quality in the downtown Wichita area.

As discussed above and in the December 20, 1985, proposed rulemaking (50 FR 51687), there are three CO monitor sites in Wichita. The two older sites recorded no violations from 1983 through 1985; however, each recorded one exceedance in 1986. No exceedances were found in the first two quarters of 1987. The SPM site is relocated near the original location. The new location has measured no exceedances in the last three quarters of 1986 and the first three quarters of 1987.

EPA believes the attainment demonstration proposed for approval on December 20, 1985 (50 FR 51687) remains approvable and satisfies the requirements of section 110(a)(2)(B) of the Clean Air Act, as amended. Despite discontinuities in the CO data and exceedances found in 1986, it appears that the CO standard may actually have been attained in Wichita. EPA believes the two new TCMs adopted by the city to replace the TCM contained in the February 28, 1985, SIP revision should provide for maintenance of the CO standard in the long term.

These two newly adopted TCMs are consistent with the commitments included in the Wichita CO SIP submitted by the KDHE on February 28, 1985. That submittal identified several alternative TCMs which would be considered should further CO exceedances be found. It appears that the city has met its original commitment.

Although this notice proposed approval for, among other things, an attainment demonstration for the end of 1987, Wichita still appears on the list of potential SIP call areas in Appendix A of EPA's proposed post-1987 ozone and carbon monoxide policy (52 FR 45044, November 24, 1987). A preliminary screening of the air quality data from the first three quarters of 1987 shows no exceedances of the standard, so EPA and the state believe that, when all of the data from the last quarter of 1987 and the first quarter of 1988 are available, it is highly probable that Wichita will be shown to be attaining the standard.

If this is not the case, however, Wichita will be subject to whatever remedies are prescribed either by EPA policy or the Clean Air Act. In any event, final rulemaking will not be made until the 1987–1988 winter CO data are reviewed.

EPA solicits public comments on this proposed action.

Proposed Action

EPA proposed to approve the Wichita CO SIP revision submitted on February 28, 1985, with the two new TCMs replacing the left-turn ban contained in the control strategy in that submittal. These new TCMs are: (1) Computerized signalization project, and (2) the overpass over Kellogg Avenue as part of the Wichita CO SIP.

Under 5 U.S.C. 605(b), I certify that SIP approvals do not have a significant impact on a substantial number of small entities. (See 46 FR 8709.)

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

List of Subjects in 40 CFR Parts 52 and 81

Air pollution control, Carbon monoxide.

Authority: 42 U.S.C. 7401–2642.

Date: February 3, 1988.

Morris Kay,

Regional Administrator.

[FR Doc. 88–6805 Filed 3–30–88; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 280

[FRL–3357–4]

Underground Storage Tanks; Financial Responsibility Requirements for Petroleum Tank Systems

AGENCY: Environmental Protection Agency [EPA].

ACTION: Supplement to proposed rule; request for comments.

SUMMARY: On April 17, 1987, EPA proposed financial responsibility requirements for underground storage tanks containing petroleum (52 FR 12786). These regulations require owners and operators of petroleum USTs to demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases from their USTs.

Today the Agency is requesting comment on an additional issue not previously raised in the April 17 proposal: a phase-in of the compliance date for the financial responsibility regulations. Any comments in response to this notice will be considered by EPA in developing the final rule.

DATE: EPA will accept comments submitted on or before May 2, 1988.

ADDRESSES: Send three copies of written comments to Docket Clerk, Office of Underground Storage Tanks (WH562–A), Docket 3–3, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Comments received by EPA, and all references used in this document, may be inspected in the public docket, located in Room LG–100, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, from 9:00 a.m. to 4:00 p.m., Mondays through Fridays, excluding legal holidays. Appointments can be made by calling (202) 475–9720.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at (800) 424–9346 (toll free) or (202) 382–3000 in Washington, DC.

SUPPLEMENTARY INFORMATION: The contents of today's preamble appear in the following outline:

I. Authority

This supplemental notice is issued under the authority of sections 2002, 9001, 9002, 9003, 9004, 9005, 9006, 9007, and 9009 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended (42 U.S.C. 6912, 6991(a), 6991(b), 6991(c), 6991(d), 6991(e), 6991(f), 6991(g), 6991(h)).

II. Background

On April 17, 1987, EPA proposed financial responsibility requirements for underground storage tanks (USTs) containing petroleum (52 FR 12786). These regulations require owners and operators of petroleum USTs to demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases from their USTs. Owners and operators are permitted to use one, or a combination, of the following mechanisms: financial test of self-insurance, guarantee, indemnity contract, insurance (including risk retention group coverage), surety bond, letter of credit, state-required mechanisms, and/or state funds (or other state insurance). Section 9003(a) of RCRA indicates that EPA should provide at least 90 days between promulgation of the final UST rules and the effective date of such regulations.

In the interval since publication of the proposal, the Agency has decided to raise an additional topic for public comment. We are requesting comment

on a phase-in of the financial responsibility regulations under which different groups of owners/operators must come into compliance with these rules at different times after publication of the final rules.

This notice discusses the Agency's current thinking on this topic and requests public comment on the issue. All of the comments and data that the Agency receives (and the comments already received in response to the proposal) will be considered in developing the final rules, which the Agency expects to promulgate later this year.

III. Phase-In of Compliance with the Underground Storage Tank Financial Responsibility Requirements

In the preamble to the April 17, 1987 proposed rule, EPA described the extremely large and diverse regulated community that will be affected by this rule (see 52 FR pp. 12791–12795). In response to the proposal, EPA has received numerous comments indicating that compliance with the financial responsibility requirements by many UST owners/operators within 90 days of promulgation would be very difficult. In developing the final rule, the Agency has reviewed the characteristics of the regulated community and the amount of time necessary for UST owners/operators currently without financial assurance to obtain such assurance after promulgation of the final rule. On the basis of this review, the Agency is considering phasing in the date of compliance of the final financial responsibility rules. Under a phase-in, different groups of owners/operators would come into compliance at different times after publication of the final rules. The Agency's rationale for phasing in the financial responsibility requirements is presented below.

Compliance with the financial responsibility regulations will require approximately 285,000 firms to demonstrate financial assurance for 1.7 million USTs located at 468,000 separate facilities. Firms owning USTs range from some of the largest corporations in the world to extremely small businesses with no reported payroll. These USTs may be integral to the running of the business (as is the case for retail gas stations) or act as a convenience because they eliminate the need to travel offsite to obtain fuel.

EPA estimates that approximately 95 percent of UST-owning firms and 65 percent of the USTs for which financial assurance must be provided do not currently have pollution liability insurance and would not qualify to use the financial test for self-insurance included in the April 17, 1987 proposal. Due to the very small number of companies currently offering coverage, it is clear that many of those currently not insured will have difficulty obtaining such coverage within 90 days of promulgation of the final rule. Even for those owners and operators who already have pollution liability insurance, this insurance may not conform in all respects to the requirements that may be specified by EPA in the final rule. Additionally, while the proposal allows the use of other financial assurance instruments, the Agency recognizes that the general availability of these instruments to certain classes of owners/operators is limited.

Therefore, the Agency believes that it would be difficult to implement this regulation properly if all owners and operators are required to come into compliance within 90 days after the regulation is published. The Agency believes that, given the very large number of firms that will be affected by this regulation and the diverse nature of these firms, it will be necessary both to provide assistance and outreach programs and to provide certain groups of owners/operators with additional time to demonstrate compliance. A phase-in will also give providers of financial assurance more time to respond to market demands and to develop financial instruments (e.g., insurance policies, letters of credit, etc.) that meet EPA's requirements.

The Agency has used a phase-in strategy successfully in the past. The RCRA Subtitle C liability requirement for nonsudden occurrences was phased-in over a 30-month period to give owners and operators subject to new coverage requirements sufficient time to respond. In addition, in April, 1987, EPA proposed to phase-in some of the UST technical standards for similar reasons. Even with a phase-in compliance schedule, however, the suspension of enforcement provisions (52 FR 12823–12832) remain available to owners and operators who can meet the requirements of the suspension provision. This will provide them with relief if they are able to demonstrate that assurance mechanisms are not available when required by the final rule.

A phase-in schedule could be based on a number of different criteria, including financial strength (e.g., annual revenue), size e.g., number of tanks owned or operated), risk (e.g., age of tanks, type of tank, tank location), or industry (e.g., retail or non-retail operation). The Agency requests comments on these criteria and on any other criteria that should be used as a basis for defining different groups and their associated compliance dates. The Agency also requests data on how these criteria should be measured. In evaluating any criteria forming the basis for a phase-in schedule the Agency will consider such factors as how easy the criteria are to ascertain and implement.

The Agency must also consider the appropriate time frame for a phase-in compliance program, and requests comments on the appropriateness of the time period between different compliance groups (e.g., six months) and the final date by which all UST owners-operators must be in compliance.

The following example illustrates how a phase-in program could be based on the number of tanks owned or operated. Owners/operators of 1,500 or more USTs might be expected to comply by the effective date of the regulation. The owners/operators in this first compliance group will most likely be large corporations that have the financial strength to pass the financial test. Thus, this group will most likely be able to self-insure or to obtain a guarantee. Owners/operators using these mechanisms should not need additional time to come into compliance with the financial responsibility requirements.

Owners/operators of between 50 and 1,499 USTs might be required to come into compliance 6 months after the effective date of the regulation. Owners/operators in the second compliance group include oil jobbers and convenience store owners/operators. Many of these owners/operators may also have the financial strength to use the financial test of self-insurance or the guarantee. These groups are also most likely to already have pollution liability insurance or have the easiest access to the current supply of such insurance.

Owners/operators of between 6 and 50 USTs might be required to come into compliance within 12 months of the effective date of the regulation. Owners/operators in this group typically include smaller oil jobbers. Twelve months will give the owners/operators in this group that do not have insurance enough time to contact insurers and to perform any assessments or tank upgrading necessary for them to get insurance.

Owners/operators of 5 or fewer USTs (single station owners and operators for example) may be given 18 months to comply because, if they are unable to get insurance, they will have to rely on forming risk retention groups or obtaining assurance from a State fund. EPA estimates that it takes approximately one year to form a risk

retention group and between one and two years for a State to implement a State fund. (EPA assumes that letters of credit, surety bonds, and other private mechanisms will only rarely be available to these owners/operators at a price they can afford.) A phase-in will also allow these owners/operators the necessary time to close tanks before they become subject to these requirements.

As indicated above, the number of USTs owned or operated is only one criterion for scheduling compliance dates. EPA requests comments on this approach as well as any alternative phase-in programs based on other criteria.

J.W. McGraw,

Acting Assistant Administrator.

[FR Doc. 88-7066 Filed 3-30-88; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3357-8]

40 CFR Parts 280 and 281

Underground Storage Tanks; Availability of Information and Request for Comments

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of information and request for comments.

SUMMARY: On April 17, 1987, the Environmental Protection Agency (EPA) proposed regulations (52 FR 12662, 12786, and 12853) for underground storage tank systems (USTs) containing petroleum or substances defined as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA has obtained additional technical information since publication of the proposal as a result of research and meetings. Today's notice announces the availability of information pertaining to the technical areas of general operating requirements, release detection and tank closure. Any comments in response to this Notice will be considered by EPA in developing the final rule.

DATE: Comments must be received by May 2, 1988.

ADDRESSES: Send three copies of written comments to Docket Clerk, Office of Underground Storage Tanks (WH-562A), Docket No. UST 2-4, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. New information identified in today's Notice may be inspected by appointment in room LG-100, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC from 9:00 am to 5:00 pm, Monday through Friday except legal holidays.

Appointments can be made by calling (202) 475-9720.

FOR FURTHER INFORMATION CONTACT: RCRA/Superfund Hotline, (800) 424-9346; or in Washington, DC, (202) 382-3000.

SUPPLEMENTARY INFORMATION: Since the publication of the proposed technical standards for underground storage tanks (52 FR 12662) EPA has acquired new information relevant to several areas of the proposed rule, including: general operating requirements, release detection and tank closure. This information has been submitted by commenters, gathered in meetings or conferences and produced by Agency research programs. The titles of the new information available for inspection follows:

HWERL Volumetric Leak Detection Methods Evaluation: Material for Docket Supporting Final UST Technical Standards.

Protocol for Evaulating Volumetric Leak Detection Methods for Underground Storage Tanks.

An Approach to Evaluating Leak Detection Methods in Underground Storage Tanks.

Quality Assurance Project Plan: Evaluate Leak Detection Methods for Petroleum USTs.

U.S. EPA Evaluation of Volumetric UST Leak Detection Methods.

Performance and Detection Criterion Analysis of the Tank Test Data on the U.S. Environmental Protection Agency National Survey of Storage Tanks.

Review of Effectiveness of Static Tank Testing.

Analysis of Manual Inventory Reconciliation: Executive Summary.

A Leak Detection Performance Evaluation of Automatic Tank Gauging Systems and Product Line Leak Detectors at Retail Stations.

Fuel Vapor Background Concentration Measurement and Tracer Testing in Underground Storage Tank Backfill.

Evaluation of U-tube Underground Tank Monitoring Systems for Soil Vapor Testing.

Draft Final Report: Background Hydrocarbon Vapor Concentration Study for Underground Fuel Storage Tanks.

Appendices for Background Hydrocarbon Vapor Concentration Study for Underground Fuel Storage Tanks.

Draft Final Report: Phase 1 of Modeling Vapor Phase Movement in Relation to UST Leak Detection.

Draft Report: Development of Procedures to Assess the Performance of External Leak Detection Devices.

1. Performance Test Procedures.

2. Executive Summary for Resuts of Laboratory Evaluation.

Soil Vapor Monitoring for Fuel Leak Detection.

Demonstration Tracer Leak Testing of 50,000 Gallon JP4 Tanks Davis Monthan AFB, Tuscon, Arizona.

Leak Test of an 80,000 Gallon Fuel Storage Facility at Tuscon International Airport.

Tracer Leak Test of Underground Tanks at Langley AFB.

Underground Tank and Pipeline Test: Certification Report of POL Facilities at Shaw AFB, South Carolina.

Pipeline Leak Test Using Tracers at Langley Air Force Base, Virginia.

Demonstration Tracer Leak Test on 600,000 Gallon Underground Fuel Tank, Patuxent River Naval Air Station, Patuxent River, Maryland.

Free Product Release Detection for Underground Storage Tank Systems.

Volume 1: Capabilities and Limitations of Wells for Detecting and Monitoring Product Releases.

Volume 2: The Effectiveness of Petroleum Tank Release Detection with Wells in Florida.

Simulation of Gasoline Leakage.

Background Document of Bottom Liner Performance in Double Lined Landfulls and Surface Impoundments.

Criteria to be Considered for Granting Variances to Hazardous Substance Underground Storage Tanks.

Progress Report on Suffolk County, New York, Tank Deflection measurements.

Progress Report on Suffork County, New York, Tank Autopsy Study.

State Survey of Contaminated Soil Programs.

Determining if Soils Contaminated with Petroleum Products are Hazardous Waste.

Technical Memorandum: Near-Term In-Service Structural Performance of Underground Fiberglass Reinforced Plastic Storage Tanks.

EPA invites the public to view this new information and requests that any public comments on it be submitted to EPA on or before May 2, 1988. Please contact the Docket Clerk in the Office of Underground Storage Tanks (WH-562A), U.S. Environmental Protection Agency, 401 M Street SW., Washington,

DC 20460, (202) 475–9720 for an appointment.

J.W. McGraw,

Acting Assistant Administrator.

[FR Doc. 88–7067 Filed 3–30–88; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Health Care Financing Administration

42 CFR Parts 74, 405 and 441

[HSQ–150–P]

Medicare, Medicaid, and Clinical Laboratories Improvement Act (CLIA) Patient Confidentiality Rules

AGENCY: Public Health Service (PHS) and Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would eliminate the requirement that a laboratory maintain the name and other identification of individuals undergoing testing to determine the presence of the Human Immunodeficiency Virus (HIV) antibody or causative agent, if the laboratory is not seeking Medicare or Medicaid payment for these tests. However, it would not excuse a laboratory from maintaining such information if it is required to do so by State law. It would propose that those laboratories or entities seeking payment from the Medicare or Medicaid programs for HIV testing must continue to provide the name and other identification of persons tested to assure proper payment of claims. However, State Medicaid programs my choose to approve the use of alternative identifiers in place of the patient's name for HIV testing of Medicaid recipients. We also propose laboratories licensed under CLIA also would not be required to maintain the names and other identification of individuals being tested to determine the presence of the HIV antibody or causitive agent. The intent of this change is to add further protection of confidentality of HIV test results and to encourage voluntary testing.

DATE: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on May 31, 1988.

ADDRESS: Mail comments to the following address:

Health Care Financing Administration, Department of Health and Human Services, Attention: HSQ–150–P, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

If comments concern information collection or recordkeeping requirements, please address a copy of comments to:

Office of Management and Budget, Office of Information and Regulatory Affairs, Room 3208, New Executive Office Building, Washington, DC 20503, Attention: Allison Herron.

In commenting, please refer to file code HSQ–150–P. Comments received timely will be available for public inspection as they are received, generally beginning approximately three weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202–245–7890).

FOR FURTHER INFORMATION CONTACT: Pam Renner, (301) 966–6818.

SUPPLEMENTARY INFORMATION:

I. Background

Acquired Immune Deficiency Syndrome (AIDS) is a major public health issue. In order to promote the laboratory testing of persons who suspect they may have been exposed to HIV, the virus associated with AIDS, current public health practice is to protect the privacy of these individuals and to maintain the strictest confidentiality concerning their health records. A number of States have enacted statutes that protect the anonymity of persons tested for the presence of the HIV antibody.

However, most facilities performing HIV testing are approved as hospital or independent laboratories in the Medicare program. The Medicare regulations (42 CFR 405.1316(f)(2) for independent laboratories and 42 CFR 482.27(b) for hospital based facilities) specify that the names and other identification of the individuals whose specimens are being tested must be obtained and maintained by the testing facility, and the regulations at § 405.1316(f) (2) and (3) and § 482.27(b) require laboratories to maintain the name of the licensed physician or other authorized person or clinical laboratory that submitted the specimen and the names of individuals presenting themselves for testing. Also, laboratories that test specimens for Medicaid recipients must meet the Medicare requirements for these facilities (section 1902(a)(9)(C) of the Social Security Act). Laboratories testing specimens in interstate commerce under the provisions of the Clinical Laboratories Improvement Act of 1967 (CLIA) must meet similar recordkeeping requirements, as specified at 42 CFR 74.53 (b) and (c).

II. Changes to the Regulations

As a result of the growing need to heighten public understanding of AIDS and to encourage voluntary testing for the disease, we propose to amend § 405.1316 by deleting the requirement for laboratories to maintain names and identification of individuals undergoing testing to determine the presence of the HIV antibody or the causative agent, provided that Medicare or Medicaid payment for testing is not sought. We propose that laboratories or entities seeking payment for HIV testing under the Medicare program would have to continue to provide the name and other identification of persons tested to assure proper payment of claims but would not be required to maintain records linking the results of the test with any patient identifier. We propose to add a new § 441.16 to set forth in regulations the Medicaid requirements for laboratores under section 1902(a)(9)(C) of the Act, and to allow States the flexibility under their Medicaid programs to provide a mechanism that assures anonymity while maintaining the integrity of the payment process: State Medicaid programs may choose to approve the use of alternative identifiers in palce of the patient's name for HIV testing of Medicaid recipients.

Further, we propose to use this occasion to announce that CLIA licensed laboratories would not be required to maintain the names and other identification of individuals being tested for the presence of the HIV antibody or causative agent. Specifically, we are proposing to amend § 74.53(b) by deleting the requirement for CLIA licensed laboratories to maintain the names and other identification of individuals undergoing testing to determine the presence of the HIV antibody or for the isolation and identification of the causative organism. We also are proposing to amend § 74.53(c) to permit individuals who submit their own specimens for testing to maintain their anonymity.

Since § 482.27(b), the laboratory management requirement of the hospital

conditions of participation, is cross-referenced to the independent laboratory requirement at § 405.1316, the proposed change to § 405.1316 would also apply to records maintained in hospital-based laboratories, without a specific revision to the conditions of participation for hospitals. Also, the change would be applicable to records maintained by clinical laboratories located in skilled nursing facilities (SNFs) because SNFs that maintain laboratories are required, by cross reference, to meet the conditions of participation of hospital-based laboratories (see §405.1128, Condition of Participation—laboratory and radiologic services, Standard (a). Provision for services). Of course, these proposed changes would not excuse laboratories from maintaining records required by State law. Therefore, they provide flexibility for the State to elect whether or not to require reporting of positive test results.

III. Regulatory Impact Statement

Executive Order (E.O.) 12291 requires us to prepare and publish an initial regulatory impact analysis for any proposed regulation that meets one of the E.O. criteria for a "major rule." A major rule is defined as any document that is likely to: (1) Have an annual effect on the economy of $100 million or more (2) cause a major increase in costs or prices for consumers, individuals, industries, government agencies, or geographic regions, or (3) result in significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States based enterprises in domestic or export markets.

We have determined that this proposed rule will neither result in an annual economic impact of $100 million or more nor meet any other criteria of the Executive Order 12291. A regulatory impact analysis is not required.

In addition, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all laboratories to be small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any proposed rule that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an alalysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hosptial as a hospital with fewer than 50 beds located outside a metropolitan statistical area.

This rule would allow affected laboratories to conform their operations to accepted public health practices regarding the confidentiality of HIV testing. It would not impose any burdens or costs on affected entities. Therefore, we have determined, and the Secretary certifies, that this proposed rule would not have a significant economic impact on a substantial number of small entities and would not have a significant economic impact on the operations of a substantial number of small rural hospitals.

IV. Other Required Information

A. Response to Comments

Because of the large number of items of correspondence we normally receive on a proposed rule, we are not able to acknowledge or respond to them individually. However, we will consider all comments that we recieve by the date and time specified in the **"DATE"** section of this preamble, and, if we proceed with a final rule, we will respond to the comments in the preamble of that rule.

B. Paperwork Reduction Act

Sections 74.53, 405.1316, and 441.16 contain information collection requirements that are subject to the Office of Management and Budget approval under the Paperwork Reduction Act of 1980 as amended, 44 U.S.C. 3507–3511. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official whose name appears in the **"ADDRESS"** section of this preamble.

V. List of Subjects

42 CFR Part 74

Laboratories, Reporting and recordkeeping requirements.

42 CFR Part 405

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Nursing homes, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 441

Family planning, Grant programs-health, Infants and childen, Medicaid, Penalties, Prescription drugs, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, Title 42 of the Code of Federal Regulations is proposed to be amended as follows:

A. Part 74 is amended as set forth below:

PART 74—CLINICAL LABORATORIES

1. The authority citation for Part 74 continues to read as follows:

Authority: Sec. 215, 58 Stat. 690; 42 U.S.C. 216.

2. In § 74.53 the introductory language is republished and paragraphs (b) and (c) are revised to read as follows:

§ 74.53 Specimen records.

Daily accession records shall contain the following information:

* * * * *

(b) The name and other identification of the person from whom the specimen was taken, if available. However, the name and other identification is not required of an individual whose specimen is tested for—

(1) The presence of the Human Immunodeficiency Virus (HIV) antibody; or

(2) The isolation and identification of the HIV causative agent.

* * * * *

(c) The name of the licensed physician or other person or clinical laboratory who or which submitted the specimen, except the name of the other person is not required if the other person is an individual submitting his or her own specimen to be tested for—

(1) The presence of the HIV antibody; or

(2) The isolation and identification of the HIV causative agent.

B. Part 405 is amended as follows:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

1. The authority citation for Part 405 Subpart M is revised to read as follows:

Authority: Sec. 1102, 1861(s)(3), (12), and (13), 1864, and 1871 of the Social Security Act as amended (42 U.S.C. 1302, 1395x(s)(3), (11), and (12), 1395aa, and 1395hh).

2. In § 405.1316(f), the introductory language is republished and paragraphs (f)(2) and (3) are revised to read as follows:

§ 405.1316 Condition—clinical laboratory; management.

* * * * *

(f) Standard; specimens—records. The laboratory maintains a record indicating the daily accession of specimens, each of which is numbered or otherwise appropriately identified. The factor explaining the standard is as follows:

Records contain the following information:

* * * * *

(2) The name and other indentification of the person from whom the specimen was taken, except for individuals for whom a request for payment is not being made under the Medicare program and whose specimens are being tested for—

(i) The presence of the Human Immunodeficiency Virus (HIV) antibody; or

(ii) The isolation and identification of the HIV causative agent.

(3) The name of the licensed physician or other authorized person or clinical laboratory who or which submitted the specimen, except that when request for Medicare payment is not being made, the name of the other authorized person is not required, if the other authorized person is an individual submitting his or her own specimen to be tested for—

(i) The presence of the HIV antibody; or

(ii) The isolation and identification of the HIV causative agent.

* * * * *

C. Part 441 is amended as follows:

PART 441—SERVICES: REQUIREMENTS AND LIMITS APPLICABLE TO SPECIFIC SERVICES

1. The authority citation for Part 441 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act; 42 U.S.C. 1302.

2 Section 441.16 is added to Subpart A to read as follows:

§ 441.16 Laboratory services.

(a) The plan must provide for payment of laboratory services as defined in § 440.30 of this subchapter if provided by—

(1) An independent laboratory that meets the requirements for participation in the Medicare program found in § 405.1316 of this chapter;

(2) A hospital-based laboratory that meets the requirements for participation in the Medicare program found in § 482.27 of this chapter;

(3) A rural health clinic, as defined in § 491.9 of this chapter; or

(4) A skilled nursing facility—based clinical laboratory, as defined in § 405.1128(a) of this chapter.

(b) Except as provided under paragraph (c), if a laboratory or other entity is requesting payment under Medicaid for testing for the presence of the human immunodeficiency virus (HIV) antibody or for the isolation and identification of the HIV causative agent as described in § 405.1316(f) (2) and (3) of this chapter, the laboratory records must contain the name and other identification of the person from whom the specimen was taken.

(c) An agency may choose to approve the use of alternative identifiers, in place of the requirement for patient's name, in paragraph (b) of this section for HIV antibody or causative agent testing of Medicaid recipients.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program; No. 13773, Medicare—Hospital Insurance Program; and No. 13.744; Medicare—Supplementary Medical Insurance Program)

Dated: September 28, 1987.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: December 3, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 88-7094 Filed 3-30-88; 8:45 am]

BILLING CODE 4160-17-M, 4120-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 2

[CGD 85-019]

Delegation of Authority to United States Classification Societies

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of Advanced Notice of Proposed Rulemaking.

SUMMARY: This notice announces the Coast Guard's intention not to proceed with the rulemaking "Delegations of Authority to United States Classification Societies." An Advance Notice of Proposed Rulemaking was published on October 3, 1985 [50 FR 40413] seeking input on the criteria for a "similar United States classification society" and the framework through which a classification society could request and be granted authority to work on behalf of the Coast Guard under 46 U.S.C. 3316. The reasons for not proceeding with a rulemaking action are the adverse impact on Coast Guard resources and the apparent lack of support by shipowners and operators.

ADDRESSES: Materials related to the Advance Notice of Proposed Rulemaking [CGD 85-019] are available for inspection or copying at the Office of the Marine Safety Council (G-CMC), Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington DC 20593-0001, between the hours of 8 a.m. and 3 p.m., Monday through Friday, except holidays. The telephone number is (202) 267-1477.

FOR FURTHER INFORMATION CONTACT: CDR R.S. Tweedie, Office of Marine Safety, Security and Environmental Protection, (202) 267-1181.

SUPPLEMENTARY INFORMATION: An Advance Notice of Proposed Rulemaking (ANPRM) [CGD 85-019] was published in the **Federal Register** on Thursday, October 3, 1985, soliciting comments on the merits of defining a "similar United States classification society," the framework and criteria that should be used in such a determination, and its probable effects. The ANPRM also advised that an analysis of the economic effects of the proposal was necessary along with an analysis of the intent of the applicable governing law. 46 U.S.C. 3316.

Drafting Information

The principal persons involved in drafting this notice are Mr. John M. Kinsey, Project Manager, Office of Marine Safety, Security and Environmental Protection and CDR Gerald A. Gallion, Project Counsel, Office of Chief Counsel.

Background

The ANPRM explained the necessity of an analysis of the economic effect of further delegations of authority to classification societies and an analysis of the intent of the applicable governing law. It also presented 9 questions for comment and discussion. The Coast Guard received 97 comments. In summary—31 comments were received which favored defining a "similar United States classification society" and delineating how they could seek authority to work on behalf of the Coast Guard; 54 comments opposed doing so; and, 12 submittals took no position.

Many comments reflected or repeated the views of major classification societies. There were comments on all of the issues presented in the ANPRM. There were also comments generally discussing whether the action under consideration was necessary at this time.

The most significant and repeated positions opposing the action are summarized below:

a. In this era of reduced funding, the Coast Guard does not have resources to expand its delegation program to other classification societies.

b. ABS is a prominent, technically superior classification society which is quite capable of expanding the range and volume of its services if needed.

c. There is no compelling need to delegate to other classification societies.

nor is there any discernible economic or technical benefit to shipowners or shipbuilders.

d. A classification society whose parent organization is foreign will not have the expertise or qualification necessary to interpret U.S. law and regulations.

e. Delegating work to other classification societies would result in less consistency than we now have in the interpretation of the standards.

f. The use of foreign nationals as agents of the government presents national security issues in times of national emergency and because of the interest of foreign intelligence communities in all aspects of shipping.

The most significant and repeated comments supporting the action under consideration are summarized below:

a. Competition will result in freedom of choice, more services and lower fees for owners and builders of U.S. flag vessels.

b. Competition between classification societies will spur technological advances as increasingly sophisticated ship builders seek solutions to their needs.

c. The proposal will not endanger national security because it does not relate to U.S. government owned vessels, nor would it result in any unfavorable technology transfer.

d. International shipping statistics show that there is no correlation between countries with a high vessel loss rate and countries that promote third party competition. In fact, the loss ratio for the United States is higher than for some countries that permit competition (Canada, Netherlands, and Norway).

After considering all of the comments and analyzing the legal, economic, and practical issues presented, the Coast Guard has decided to withdraw this docket based on the anticipated economic impact on the Coast Guard of recognizing additional classification societies and the lack of support from industry.

Discussion

Analysis of the Economic Impact of the Action Under Consideration

The Coast Guard performed a sensitivity analysis to study and anticipate the impact on agency resources that might result if the Coast Guard should delegate plan review and inspection of new vessels to classification societies other than the American Bureau of Shipping (ABS). Assumptions were that present oversight of ABS is 10% and that the rate of new vessel construction would remain constant at an average of the 1984–1986 rates. The change of staff years of effort that would result from recognizing a new society was calculated with scenarios that varied the anticipated U.S. vessel market share a newly recognized society might obtain and the effect of doubling the domestic and foreign construction rates. The calculations assumed declining oversight of 100%, 50%, 25% and 10% for the 1st-2nd, 3rd-4th, 5th-6th, and 7th years after recognition of a new society.

The analysis demonstrated that the Coast Guard would incur substantial resource costs by recognizing one or more similar classification societies. The increase in headquarters staff year requirements and the increase in field plan review and inspection oversight requirements would considerably exceed the savings of plan review and inspection hours realized by recognizing a class society to work on our behalf. The Coast Guard would be required to devote 2 to 3 staff years to complete a rulemaking, and 2 to 3 staff years to implement the rule for each new society. The Coast Guard would also require an initial 4 to 11 staff years annually for the first years of oversight under a scenario where a new class society captures 25% of the U.S. built new vessel construction market and 50% of the foreign built market. The actual increase in workload would depend upon the market share a new society may obtain and any change in U.S. shipbuilding trends. The analysis demonstrated that the need for these resources would decrease over time as Coast Guard oversight decreases.

Assuming that another society would achieve the present status of ABS by the 7th year, the total cumulative additional plan review and inspection oversight costs for the preceding years would be between 15 and 30 staff years of effort. Therefore, the total cost to the Coast Guard of recognizing a single additional society would be between 19 (15 oversight and 4 up front) and 36 (30 oversight and 6 up front) staff years of effort before we reach the present level of effort under the ABS MOU.

The main reason for the high cost is that work would shift from the ABS (with 10% Coast Guard oversight) to the other classification society (with 100% initial oversight). The only long term gain to the Coast Guard would be a reduction of the work we now spend on new vessels currently being classed with another society—about one per year. This would equal a maximum benefit of one to two staff years.

The higher degree of initial operational oversight would be required to evaluate the general knowledge of Coast Guard regulations by classification society staff surveyors and management. The Coast Guard would be required to evaluate how well a newly recognized society knows, interprets, and applies Coast Guard regulations on its behalf. This would be a measure of overall professional ability to act on behalf of the Coast Guard as opposed to technical ability and the adequacy of structural rules. The Coast Guard has developed confidence in the way ABS understands and deals with our regulations over years of field experience—marine inspector to class surveyor. Other classification societies would have to develop and implement a system to train, examine and evaluate class surveyors in the knowledge and application of CG regulations. The Coast Guard would have to evaluate the training, competency and effectiveness of surveyors from another society through the oversight process. It is anticipated that it would take at least 7 years to develop the level of confidence that exists with ABS.

The sensitivity analysis showed that further recognition and delegations by the Coast Guard would have the most pronounced, positive effect if or when additional class societies gain a share of the existing available market. The data used for the sensitivity analysis showed only three new inspected vessels classed by a society other than ABS between 1983 and 1986. This resulted in an average of one new building per year. Unless other class societies can increase their market shares substantially, further delegations would require an extended investment of resources and would not result in a net savings to the Coast Guard.

Industry Reaction

The action under consideration received relatively little industry support. In all, 23 ship owners, operators and builders were opposed to the project, 10 favored it, 4 took no position. Comments of the offshore exploration and drilling industry interests were included in this count. Various drilling industry vessels, especially MODU's, have been designed and built to the rules of other classification societies in recent years. Ten comments were received from drilling industry interests. These comments represented the greatest, proportionate base of support for the action under consideration; five commentors supported the action under consideration and five opposed it. Six underwriters, insurers and banks commented on the ANPRM. Five opposed the action under consideration; one supported it. Likewise, eight industry associations commented on the

ANPRM. Five opposed the action under consideration; three supported it. There was overall opposition to the ANPRM, particularly from industry sectors with the greatest interest in the outcome.

Analysis of Other Issues in the ANPRM

While not factors in the decision to withdraw this rulemaking action, certain other issues were raised in the ANPRM and bear brief discussion.

Issue: What is a "similar U.S. classification society?"

Discussion: Comments received and review of 46 U.S.C. 3316 suggest that, irrespective of any affiliation with a foreign classification society, the mere incorporation of an organization in the United States which will offer ship classification services and set standards for the design, construction and survey of merchant vessels, will not make that organization a "similar United States classification society." The Coast Guard has not taken final agency action on this issue, but it now appears that a better preliminary definition of a "similar U.S. classification society is one that:

a. Is a non-profit entity organized under the laws of a state;

b. Has no capital stock and pays no dividends to its members;

c. Has on its board of directors at least two representatives of the U.S. government;

d. Peforms classification functions similar to those performed by the American Bureau of Shipping (ABS); and

e. Is organized like ABS.

When Congress used ABS as a model in section 3316, it contemplated that U.S. citizen involvement be dominant in the management and membership of a similar classification society. To determine if a similar classification society is organized like ABS, the Coast Guard would be guided by the Congressional concern that American interests be dominant in a U.S. classification society. In addition, in making a determination, the Coast Guard would focus on whether the organization was a non-profit entity under the law of the state of incorporation rather than whether it had tax exempt status under the Internal Revenue Code.

Issue: Ramifications of using foreign nationals as classification society surveyors to enforce United States marine inspection regulations.

Discussion: Some commenters opposing the proposed rule raised the issue of national defense. The Coast Guard does not consider this a real issue. U.S. vessels are designed, built, launched and outfitted in many parts of the world. Many of them are surveyed by ABS employed foreign nationals.

Commercial ship design, equipment, and propulsion systems are advertised and marketed worldwide. Vessel characteristics and construction techniques are thoroughly discussed in numerous maritime industry publications with world wide circulation.

The Department of the Navy commented on the proposal, and did not express any national defense concerns. In fact, the Military Sealift Command has purchased and reflagged several ships previously classed by other societies and which are now ABS classed. 46 U.S.C. 3316(b) provides for the ABS as the classification society for U.S. government vessels.

Any future national security concerns over foreign interest in U.S. shipbuilding can be dealt with using existing policy, law and procedures.

Issue: Acceptance of a similar U.S. classification society that has a foreign affiliation should be contingent upon reciprocal acceptance of ABS by the society's home government.

Discussion: The vast majority of comments strongly recommended that reciprocity or equal access to foreign markets be a consideration in the decision to recognize another classification society, particularly if it was affiliated with or related to a foreign society. Some comments alluded to restrictions imposed by agencies of one government and noted that several nations require classification by their national class societies.

The Coast Guard discussed this issue with the Office of The U.S. Trade Representative, Technical Trade Barriers Section. The U.S. Trade Representative favored the concept of requiring a foreign classification society's home administration to document that ABS had been successful in gaining access to its market, as opposed to simply declaring that access was available, prior to considering delegation to a foreign class society. From a trade perspective there is concern that there be genuine reciprocity, and not the mere willingness to accept ABS, among the requirements for a society affiliated with or related to a foreign society to obtain approval to work on the Coast Guard's behalf.

Technical and Administrative Issues

Comments on other technical or administrative issues which would have been pertinent in developing the rule, but did not relate to the decision whether to proceed with a rulemaking action, are not discussed in this notice.

Withdrawal of Proposals

In accordance with the preceeding, the Advance Notice of Proposed Rulemaking, CGD 85-019 (50 FR 40413; October 3, 1985) is hereby withdrawn.

Dated: March 23, 1988.

J.W. Kime,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety Security and Environmental Protection.

[FR Doc. 88-6880 Filed 3-30-88; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF DEFENSE

48 CFR Part 215

Federal Acquistion Regulation Supplement; Contracting by Negotiation

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule and request for public comments.

SUMMARY: The Department of Defense is proposing to revise DFARS Subpart 215.6 and 215.8 to clarify the existing coverage on Adequate Price Competition. Clarification is needed to explain that adequate priced competition may exist even where price is not a primary factor in evaluation of proposals, regardless of the type of contract contemplated. A definition of cost realism is proposed which is distinguished from the detailed cost analysis typically conducted in sole source procurements.

DATE: Public comments are solicited and should be received by May 2, 1988 to ensure their consideration in the development of the final rule. Please cite DAR Case 87-97 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, DAR Council, OASD (P&L), DASD (P)/DARS, c/o Room 3D139, The Pentagon, Washington, DC 20301-3062.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, (202) 697-7266.

SUPPLEMENTARY INFORMATION:

A. Background

The Deputy Assistant Secretary of Defense for Procurement issued a memorandum dated May 1, 1987, on Adequate Price Competition. The memorandum expressed concern that contracting officers were requesting detailed cost or pricing data and then conducting detailed cost and profit

analysis even though adequate price competition had resulted or was expected to result on the procurement. The memorandum stated that there should rarely be a need to obtain certified cost or pricing data in a competition although some cost data may be required to determine cost realism to ensure that the offeror adequately understands the scope of the work. Unnecessarily requiring cost or pricing data is not in the best interest of DoD because it leads to increased proposal preparation costs, extends procurement lead time, and wastes both contractor and Government resources.

When the intent of this proposed rule is finalized, it will implement the policy statement of the OASD (P) memorandum.

B. Regulatory Flexibility Act Information

The proposed rule is not expected to have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. because most contracts are awarded to small entities on a competitive basis, and the detailed cost or pricing data will seldom, if ever, be required under these proposed regulations. Therefore, an initial Regulatory Flexibility Act Analysis has not been performed. Comments are invited. Comments from small entities concerning the affected DFARS Subpart will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 88–610D in correspondence.

C. Paperwork Reduction Act Information

Present DFARS coverage expects that contracting officers will not ask for detailed cost and pricing data as a substitute for requesting cost data on competitive procurements when such cost data is required to determine cost realism to ensure that an offeror adequately understands the scope of work. This proposed rule is issued to clarify that fact. Therefore, the rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et. seq.

List of Subjects in 48 CFR Part 215

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Therefore, it is proposed to amend 48 CFR Part 215 as follows:

1. The authority citation for 48 CFR Part 215 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 215—CONTRACTING BY NEGOTIATION

2. Section 215.608 is amended by adding paragraph (a)(1) to read as follows:

215.608 Proposal evaluation.

(a)(1) See also 215.805–70 regarding use of cost realism analysis.

* * * * *

3. Section 215.801 is added to read as follows:

215.801 Definitions.

"Cost realism analysis", as used in this subpart, means a review of the cost portion of an offeror's proposal to determine if the overall costs proposed are realistic for the work to be performed, if the costs reflect an offeror's understanding of the requirements, or if the costs are consistent with the various elements of the technical proposal.

4. Section 215.804–3 is amended by adding paragraph (b)(1) to read as follows:

215.804–3 Exemption from or waiver of submission of certified cost or pricing data.

* * * * *

(b)(1) Adequate price competition may exist for any contract, including cost reimbursement contracts, even though price is not the primary factor in the evaluation of proposals, provided that price is a substantial factor in the source selection criteria.

* * * * *

5. Section 215.805–1 is added to read as follows:

215.805–1

(b) See also 215.805–70 regarding use of cost realism analysis.

6. Section 215.805–70 is added to read as follows:

215.70 Cost realism analysis.

(a) Even when adequate price competition exists, it may be appropriate to perform a cost realism analysis (see 215.801) to ensure that there is a reasonable expectation that the proposed costs are consistent with the technical proposal, especially for cost-reimbursement contracts. Cost realism analysis should also be used: when the solicitation contains new requirements that may not be fully understood by competing contractors; when there are quality concerns; or when past experience has indicated that contractors have proposed costs which have resulted in quality or service shortfalls.

(b) Information necessary to perform a cost realism analysis should be determined during procurement planning and development of the solicitation based upon the circumstances of the particular procurement. There are instances where they may be information available from government sources to perform a cost realism analysis; in other instances information will have to be obtained from the offerors.

[FR Doc. 88–7057 Filed 3–30–88; 8:45 am]

BILLING CODE 3810–01–M

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48 CFR Part 245

Department of Defense Federal Acquisition Regulation Supplement; Government Property, No Cost Storage Agreements

AGENCY: Department of Defense (DoD).

ACTION: Proposed Rule and request for comment.

SUMMARY: The DAR Council is considering a change to DFARS 245.612–3 that would prohibit storage of Government property under "no-cost" storage agreements. Costs are obviously incurred in the care and control of stored Government property. These storage costs should be reflected in separately priced and funded contracts.

DATE: Comments must be received by the DAR Council at the address shown below on or before May 2, 1988, to be considered in developoing a final rule.

ADDRESS: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, ODASD(P)/DARS, c/o OASD(A&L) (MRS), Room 3D139, The Pentagon, Washington, DC 20301–3062. Please cite DAR Case 87–122 in all correspondence related to this subject.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, (202) 697–7266.

SUPPLEMENTARY INFORMATION:

A. Background

The Under Secretary of Defense for Acquisition issued a memorandum on November 25, 1986, that made a number of recommendations to the military departments and DLA in the area of property management. One of those was to cease using "no-cost" storage

agreements which permit Government property to remain idle for long periods with little review to determine actual need. Many of these agreements become convenient holding areas for property where future requirements are unknown. The GAO and the DoD IG found instances where Government property, particularly tooling, was stored for many years with little or no use. The proposed DFARS changes will require Contracting Officers to thoroughly analyze their decisions to retain or dispose of property and to fund storage directed by the Government. Contractors would be required to submit proposals for storage contracts.

B. Regulatory Flexibility Act Information

The proposed change to 245.612–3 may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because contractors will now be required to prepare cost/price proposals when storage agreements are contemplated. An Initial Regulatory Flexibility Analysis has been prepared and a copy submitted to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Chief Counsel for Advocacy of the Small Business Administration. Comments are invited. Comments from small entities concerning the affected DFARS Subpart will also be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 88–610D in correspondence.

C. Paperwork Reduction Act Information

The rule does contain information collections requirements which require the approval of OMB under 44 U.S.C. 3501 et seq. A paperwork burden package is being prepared for submission to OMB for approval.

List of Subjects in 48 CFR Part 215

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Therefore, it is proposed to amend 48 CFR Part 245 as follows:

1. The authority citation for 48 CFR Part 245 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 245—GOVERNMENT PROPERTY

2. Section 245.612–3 is added to read as follows:

245.612–3 Special storage at the Government's expense.

(a) Before authorizing retention of items in storage for anticipated future use, the contracting officer shall ensure that sufficient funds are available to pay the storage and any related tasks required of the contractor. The contracting officer shall review retention decisions at least annually to determine whether continued storage is appropriate.

(b) All storage contracts shall be fully funded and separately priced to include all allocable costs.

[FR Doc. 88–7058 Filed 3–30–88; 8:45 am]

BILLING CODE 3810–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1201

[No. 40165]

Adoption of the Railroad Accounting Principles Board's Recommendation on Its Data Integrity Principles in Reports Prepared Using Agreed Upon Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commission proposes to adopt the recommendation by the Railroad Accounting Principles Board (RAPB) regarding its Data Integrity principle. Specifically, the Commission would require that independent puiblic accountants (IPA's) comply with Statements on Auditing Standards No. 35 (SAS No. 35) and the American Institute of Certified Public Accountants' *Statement on Standards for Attestation Engagements* (Attestation Standards) [1] when preparing railroad audit reports using agreed-upon procedures.[2]

DATES: Comments must be filed on or before April 30, 1988.

ADDRESS: Comments should be sent to Docket No. 40165, Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: William F. Moss, III, (202) 275–7510. [TDD for hearing impaired: (202) 275–1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to The Office of the Secretary, Room 2215, Interstate Commerce Commission Building, Washington, DC 20423 or call (202) 275–7428. (Assistance for the hearing impaired is available through TDD service on (202) 275–1721).

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.

This revision will be submitted to the Office of Management and Budget (OMB) for review under Section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35). Respondents may direct comments to OMB by addressing them to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for Interstate Commerce Commission, Washington, DC 20503.

List of Subjects in 49 CFR Part 1201

Railroads, Uniform System of Accountants.

For the reasons set forth in the preamble, Title 49, Part 1201 is proposed to be amended as described above.

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

Decided: March 24, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Sterrett, Simmons, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 88–7033 Filed 3–30–88; 8:45 am]

BILLING CODE 7035–01–M

[1] SAS No. 35, *Special Reports—Applying Agreed Upon Procedures to Specified Elements, Accounts, or Items of a Financial Statement*, was issued by the Auditing Standards Board of the American Institute of Certified Public Accountants in April, 1981.

Statement on Standards for Attestation Engagements was issued by the Auditing Standards Board and the Accounting and Review Services Committee under the authority of the AICPA in March 1986.

[2] Ex Parte No. 460, *Certification of Railroad Annual Report R–1 by Independent Accountant*, served on October 11, 1985, established that IPA's shall perform rail audits using agreed-upon procedures.

Notices

Federal Register
Vol. 53, No. 62
Thursday, March 31, 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

Cooperative State Research Service

Committee of Nine; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92–463, 86 Stat. 770–776), the Cooperative State Research Service announces the following meeting:

Name: Committee of Nine
Date and Time:
May 18, 1988, 8:30 a.m.–5:00 p.m.
May 19, 1988, 8:30 a.m.–2:00 p.m.
Place:
U.S. Department of Agriculture
May 18—Room 104A, Administration Building
May 19—Room 107A, Administration Building
Washington, DC 20250–2200
Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.
Comments: The public may file written comments before or after the meeting with the contact person listed below.
Purpose: To evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State agricultural experiment stations.
Contact Person for Agenda and More Information: Dr. Edward M. Wilson, Executive Secretary, U.S. Department of Agriculture, Cooperative State Research Service, Room 223 Justin Smith Morrill Building, Washington, DC 20251–2200, Telephone: 202/447–4587.

Done at Washington, DC this 16th day of March 1988.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 88–7043 Filed 3–30–88; 8:45 am]

BILLING CODE 3410–22–M

Federal Grain Inspection Service

Request for Designation Applicants To Provide Official Services in the Geographic Area Currently Assigned to the Louisville (KY), Minot (ND), and Tri-State (OH) Agencies

AGENCY: Federal Grain Inspection Service (Service), USDA.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as Amended (Act), official agency designations shall terminate not later than triennially and may be renewed according to the criteria and proceedures prescribed in the Act. This notice announces that the designation of three agencies will terminate, in accordance with the Act, and requests applications from parties interested in being designated as the official agency to provide official services in the geographic area currently assigned to the specified agencies. The official agencies are Louisville Grain Inspection Services, Inc. (Louisville), Minot Grain Inspection, Inc. (Minot), and Tri-State Grain Inspection Service, Inc. (Tri-State).

DATE: Applications to be postmarked on or before May 2, 1988.

ADDRESS: Applications must be submitted to James R. Conrad, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647, South Building, P.O. Box 96454, Washington, DC 20090–6454. All applications received will be made available for public inspection at this address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulations do not apply to this action.

Section 7(f)(1) of the Act specifies that the Administrator of the Service is authorized, upon application by any qualified agency or person, to designate such agency or person to provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

Louisville, located at 1400 Oldham Street, Louisville, KY 40210; Minot, located at 601 Third Avenue, SW., Minot, ND 58701; and Tri-State, located at 3906 River Road, Cincinnati, OH 45204; were each designated under the Act as an official agency to provide inspection functions on October 1, 1985.

Each official agency's designation terminates on September 30, 1988. Section 7(g)(1) of the Act states that designations of official agencies shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Louisville, in the States of Indiana and Kentucky, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows:

In Indiana: Clark, Crawford, Floyd, Harrison, Jackson, Jennings, ge Jefferson, Lawrence, Martin, Orange, Scott, and Washington Counties.

In Kentucky: Allen, Anderson, Barren, Breckinridge, Bullitt, Butler, Carroll, Edmonson, Fayette, Franklin, Grayson, Hardin, Hart, Henry, Jefferson, Jessamine, Larue, Mead, Nelson, Oldham, Scott, Shelby, Simpson, Spencer, Trimble, Warren, and Woodford counties.

The geographic area presently assigned to Minot, in the State of North Dakota, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows:

Bounded on the North by the North Dakota State line east to State Route 14;

Bounded on the East by State Route 14 south to State Route 5; State Route 5 east to State Route 60; State Route 60 southeast to State Route 3; State Route 3 south to State Route 200;

Bounded on the South by State Route 200 west to State Route 41; State Route 41 south to U.S. Route 83; U.S. Route 83 northwest to State Route 200; State Route 200 west to U.S. Route 85; U.S. Route 85 south to Interstate 94; Interstate 94 west to the North Dakota State line; and

Bounded on the West by the North Dakota State line.

The following locations, outside of the above contiguous geographic area, are part of this geographic area assignment:

Farmers Elevator Company, Bottineau, Bottineau County; Farmers Feed & Grain, and Farmers Union, both in Harvey, Wells County; Farmers Union, Rugby, Pierce County (located inside Grand Forks Grain Inspection Department's area); and Farmers Elevator & Mercantile Co., and Coast Trading Company, both in Underwood, and Merle A. Larson Elevator, Inc., Washburn, all in McLean County (located inside Grain Inspection, Inc.'s area).

The geographic area presently assigned to Tri-State, in the States of Indiana, Kentucky, and Ohio, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows:

In Indiana: Dearborn, Decatur, Franklin, Ohio, Ripley, Rush (south of State Route 244), and Switzerland Counties.

In Kentucky: Bath, Boone, Bourbon, Bracken, Campbell, Clark, Fleming, Gallatin, Grant, Harrison, Kenton, Lewis (west of State Route 59), Mason, Montgomery, Nicholas, Owen, Pendleton, and Robertson Counties.

In Ohio: Bounded on the North by the northern Preble County line east; the western and northern Miami County lines east to State Route 296; State Route 296 east to State Route 560; State Route 560 south to the Clark County line; the northern Clark County line east to U.S. Route 68;

Bounded on the East by U.S. Route 68 south to U.S. Route 22; U.S.22 east to State Route 73; State Route 73 southeast to the Adams County line; the eastern Adams County line;

Bounded on the South by the southern Adams, Brown, Clermont, and Hamilton County lines; and

Bounded on the West by the western Hamilton, Butler, and Preble County lines.

Interested parties, including Louisville, Minot, and Tri-State, are hereby given opportunity to apply for official agency designation to provide the official services in each geographic area, as specified above, under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in each specified geographic area is for the period beginning October 1, 1988, and ending September 30, 1991. Parties wishing to apply for designation should contact the Review Branch, Compliance Division, at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Date: March 4, 1988.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 88–7039 Filed 3–30–88; 8:45 am]

BILLING CODE 3410–EN–M

Designation Renewal of the Lincoln (NE) and Omaha (NE) Agencies

AGENCY: Federal Grain Inspection Service (Service), USDA.

ACTION: Notice.

SUMMARY: This notice announces the designation renewal of Lincoln Inspection Service, Inc. (Lincoln) and Omaha Grain Inspection Service, Inc. (Omaha), as official agencies responsible for providing official services under the U.S. Grain Standards Act, as Amended (Act).

EFFECTIVE DATE: May 1, 1988.

ADDRESS: James R. Conrad, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

The Service announced that Lincoln's and Omaha's designations terminate on April 30, 1988, and requested applications for official agency designation to provide official services within specified geographic areas in the November 2, 1987, **Federal Register** (52 FR 42023). Applications were to be postmarked by December 2, 1987. Lincoln and Omaha were the only applicants for designation and each applied for designation renewal in the entire area currently assigned to that agency.

The Service announced the applicant names in the December 31, 1987, **Federal Register** (52 FR 49459) and requested comments on the applicants' designation. Comments were to be postmarked by February 16, 1988; none were received.

The Service evaluated all available information regarding the designation criteria in section 7(f)(1)(A) o fthe Act; and, in accordance with section 7(f)(1)(B), determined that Lincoln and Omaha are able to provide official services in the geographic area for which the Service is renewing their designation. Effective May 1, 1988, and terminating April 30, 1991, Lincoln and Omaha will provide official inspection services in their entire specified geographic area, previously described in the November 2 **Federal Register.**

Interested persons may obtain official services by contacting the agencies at the following addresses: Lincoln located at 505 Garfield Street, Lincoln, NE 68502; and Omaha located at 2525 South 13th Street, Omaha, NE 68108.

Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.)*

Date: March 4, 1988.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 88–7040 Filed 3–30–88; 8:45 am]

BILLING CODE 3410–EN–M

Request for Comments on Designation Applicant In the Geographic Area Currently Assigned to the Jamestown (ND) Agency

AGENCY: Federal Grain Inspection Service (Service), USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicant for official agency designation in the geographic area currently assigned to Grain Inspection, Inc. (Jamestown).

DATE: Comments to be postmarked on or before May 16, 1988.

ADDRESS: Comments must be submitted in writing to Lewis Lebakken, Jr., Information Resources Staff, FGIS, USDA, Room 1661 South Building, P.O. Box 96454, Washington, DC 20090–6454.

Telemail users may respond to [IRSTAFF/FGIS/USDA] telemail.

Telex users may respond as follows:

To: Lewis Lebakken.

TLX:7607351, ANS:FGIS UC.

All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue SW., during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Department Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

The Service requested applications for official agency designation to provide official services within a specified geographic area in the February 2, 1988, **Federal Register** (53 FR 2862). Applications were to be postmarked by March 3, 1988. Jamestown was the only applicant for designation and it applied for designation renewal in the entire area currently assigned to that agency.

This notice provides interested persons the opportunity to present their comments concerning the applicant's designation. Commenters are encouraged to submit reasons for support or objection to this designation action and include pertinent data to support their views and comments. All comments must be submitted to the Information Resources Staff, Resources Management Division, at the above address.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the **Federal Register**, and the applicant will be informed of the decision in writing.

Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Date: March 4, 1988.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 88–7041 Filed 3–30–88; 8:45 am]

BILLING CODE 3410–EN–M

Forest Service

Mine Development Plan, Lolo National Forest; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service will prepare an environmental impact statement to identify the specific operating stipulations under which the Bagdad Mine will be developed.

The Lolo National Forest has received a proposed plan to develop a gold mine along Williams Gulch within the Rock Creek drainage basin. Because of the sensitive resource values of Rock Creek, the possibility of adverse cumulative effects along the Clark Fork River system, and the controversial nature of development within this area, the Forest Supervisor, Lolo National Forest intends to assess the mining proposal using an environmental impact statement. Upon identification of public issues and management concerns, a full range of alternatives will be considered, including a no-action alternative.

Federal, State, local agencies, local landowners, and other interested individuals and groups who may be affected by the decision will be encouraged to participate in the process. Written comments should be mailed to Orville L. Daniels, Forest Supervisor, Lolo National Forest, Building 24, Fort Missoula, Missoula, Montana, 59801 by May 13, 1988.

A draft environmental impact statement (DEIS) is expected to be filed with the Environmental Protection Agency (EPA) and be available for public review by July 15, 1988. At that time, EPA will publish a notice of availability of the DEIS in the **Federal Register.**

The comment period on the DEIS will be 30 days from the date the EPA notice of availability appears in the **Federal Register.** It is very important that reviewers participate at that time. To be most helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see the Council on Environmental Quality (CEQ) Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have been established that reviewers of DEIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions, *Vermont Yankee Nuclear Power Corp. vs. NRDC*, 435 U.S. 519, 553 (1978), and environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement (FEIS), *Wisconsin Heritages, Inc. vs. Harris*, 490 F. Supp. 1334, 1338 (E. D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when such input can be meaningfully considered and responded to in the FEIS.

After the comment period ends, the comments will be analyzed and considered by the Forest Service in preparing the final environmental statement (FEIS). The FEIS is scheduled to be completed by September 15, 1988. The Forest Service is required to respond in the FEIS to the comments received (40 CFR 1503.4). The responsible official, Orville L. Daniels, Forest Supervisor, Lolo National Forest, will document the decision and rationale in the Record of Decision. That decision will be subject to appeal under 36 CFR 211.18.

Questions about the proposed action and environmental impact statement should be directed to Greg L. Munther, Acting District Ranger, Missoula Ranger District, Lolo National Forest, at telephone (406) 329–3750.

Date: March 23, 1988.

Charles W. Spoon,

Acting Forest Supervisor.

[FR Doc. 88–7052 Filed 3–30–88; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Cocodrie-Grand Louis Watershed Supplement, Louisiana

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Cocodrie-Grand Louis Watershed Supplement, Evangeline and St. Landry Parishes Louisiana.

FOR FURTHER INFORMATION CONTACT: Horace J. Austin, State Conservationist, Soil Conservation Service, 3737 Government Street, Alexandria, Louisiana 71302, telephone (318) 473–7751.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these fundings, Horace J. Austin, State Conservationist, has determined that the preparation and review of an environment impact statement are not needed for this project.

The supplement concerns a plan for watershed protection. The planned works of improvement include financial assistance and accelerated technical assistance for installation of land treatment on 3,000 acres of critically eroding cropland and 2,500 acres of pasture land with gully erosion.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on

file and may be reviewed by contacting Horace J. Austin.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Horace J. Austin,

State Conservationist.

Date: March 24, 1988.

[FR Doc. 88–6985 Filed 3–30–88; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Minority Business Development Agency

[Transmittal No. 06–10–88015–01, Project I.D. No. 06–10–88015–01]

Tulsa Minority Business Development Center (MBDC)

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 three (3) year period, subject to available funds. The cost of performance for the first twelve (12) months is estimated at $194,118 for the project's performance period of August 1, 1988 to July 31, 1989. The MBDC will operate in the Tulsa Standard Metropolitan Statistical Area (SMSA).

The first year's cost for the MBDC will consist of:

Name	Federal	Non-Federal	Total
Tulsa SMSA.....	$165,000	[1] $29,118	$194,118

[1] Can be a combination of cash, in-kind contribution and fees for service.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, non-profit and for-profit organizations, local and state governments, American Indian Tribes and educational institutions.

The MBDC will provide management and technical assistance (M&TA) 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 (M&TA); and serve as a conduit of information and assistance regarding minority business.

Applications will be judged 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 (M&TA); 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 three (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.

Closing Date: The closing date for receipt of application is April 30, 1988.

Address: MBD—Dallas Regional Office, 1100 Commerce Street, Suite 7B23, Dallas, Texas 75242–0790.

For Further Information, Contact: Deselene Crenshaw, Business Development Clerk, Dallas Regional Office, 214/767/8001.

Supplementary Information: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

A pre-bid conference will be held in Dallas on April 15, 1988 at 1:00 p.m. Conference site information may be obtained by contacting the individual designated above.

Melda Cabrera,

Regional Director, Minority Business Development Agency, Dallas Regional Office.

Section B. Project Specification

Program Number and Title: 11.800 Minority Business Development.

Project Name: Tulsa MBDC (Geographic Area or SMSA).

Project Identification Number: 06–10–88015–01.

Project Start and End Dates: 08/01/88 to 07/31/89.

Project Duration: 12 months.

Total Federal Funding (85%): $165,000.

Minimum Non-Federal Share (15%): $29,118.

Total Project Cost (100%): $194,118.

Closing Date for Submission of this Application: April 30, 1988.

Geographic Specification: The Minority Business Development Center shall offer assistance in the geographic area of: *Tulsa, Oklahoma* SMSA.

Eligibility Criteria: There are no eligiblity restrictions for this project. Eligible applicants may include individuals, non-profit organizations, for-profit firms, local and state governments, American Indian Tribes, and educational institutions.

Project Period: The competitive award period will be for approximately three years consisting of three separate budget periods. Performance evaluations will be conducted, and funding levels will be established for each of three budget periods. The MBDC will receive continued funding, after the initial competitive year, at the discretion of MBDA based upon the availability of funds, the MBDC's performance, and Agency priorities.

MDBA's minimum level of effort:

Financial packages: $2,747,000.

Billable M&TA: $84,000.

Number of Professional Staff: 3.

Procurements: $5,493,000.

M&TA Hours: 1,680.

Number of Clients: 76.

[FR Doc. 88–7031 Filed 3–30–88; 8:45 am]

BILLING CODE 3510–31–M

Minority Business Development Application; Washington, DC

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 August 1, 1988 to July 31, 1989. The MBDC will operate in the Richmond, 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 03–10–88006–10.

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 judged 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.

Closing Date: The closing date for applications is May 9, 1988. Applications must be postmarked on or before May 9, 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.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Willie J. Williams,

Regional Director, Washington Regional Office.

Date: March 25, 1988.

[FR Doc. 88-6986 Filed 3-30-88; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Receipt of a Petition for Rulemaking; Atlantic Bluefin Tuna Fisheries

NOAA announces receipt of a petition for rulemaking to amend the regulations implementing the Atlantic Tunas Convention Act.

A group of 11 Atlantic bluefin tuna fishermen has requested a rulemaking that would ban the use of spotter aircraft in all permit categories of the Atlantic bluefin tuna fishery except the purse seine category which traditionally uses aircraft. The association contends that the use of aircraft introduces a new gear category to the fishery, which is contrary to the intent and purpose of the regulations governing Atlantic bluefin tuna as set forth at 50 CFR Part 285. In addition, during the summer when hundreds of vessels are concentrated on the grounds fishing for Atlantic bluefin tuna, several aircraft circling in the area at low altitudes cause a hazard by further concentrating boats around those using aircraft. Further, it is asserted that the use of aircraft may tend to concentrate the catch of Atlantic bluefin tuna among a very few fishermen, contrary to NOAA's intent to spread harvest of the limited quota among the greatest number of fishermen.

NOAA requests comments from all interested parties on this petition. Specifically, NOAA would like comments regarding the impacts of using aircraft on the fishery for giant Atlantic bluefin tuna. All comments will be considered in determining whether to undertake the rulemaking. If the Assistant Administrator determines that the rulemaking should be pursued, a Notice of Proposed Rulemaking and a schedule of public hearings will be published in the **Federal Register.**

Copies of the petition and further information can be obtained by contacting Kathi L. Rodrigues, at 617-281-3600, ext. 324, or by writing to the following address. Comments on the petition and on the management measures outlined below should be sent to the Regional Director, National Marine Fisheries Service, 14 Elm Street, Gloucester, MA 01930. Mark the outside of the envelope, "Comments, Atlantic Bluefin Tuna".

In addition, NOAA uses this opportunity to solicit comments and recommendations from all Atlantic bluefin tuna permit holders and industry members on other measures being considered. Comments should be sent to the same address as above. These measures would:

(1) Limit the incidental longline catch amount of Atlantic bluefin tuna landed from the southern part of the Regulatory Area to 2 percent by weight of all other fish on board. Currently, vessels fishing in this area, south of 36°00′ N. latitude, may retain two Atlantic bluefin tuna per trip. This may have permitted a directed fishery for Atlantic bluefin tuna in the Gulf of Mexico, contrary to the intent of the regulations and the United States' obligations to the International Commission for Conservation of Atlantic Tunas (ICCAT) under the Atlantic Tunas Convention Act.

(2) Close all or a portion of the Gulf of Mexico to longline gear during a specified spawning season.

(3) Restate and clarify in the regulations the United States' obligation to prohibit directed fishing for Atlantic bluefin tuna in the Gulf of Mexico as recommended by ICCAT.

(4) Reestablish the scientific quota administered by the Southeast Fisheries Center for research purposes.

Dated: March 25, 1988.

Richard H. Schaefer,

Director, Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88-7093 Filed 3-30-88; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent To Grant Exclusive Patent License; Liposome Co.; Inc.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Liposome Company, Inc., having a place of business in Princeton, NJ, an exclusive right in the United States to manufacture, use, and sell products embodied in the invention entitled "New Antiretroviral Agents and Delivery System for the Same," U.S. Patent Application Serial Number 7-037,178. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments and other materials relating to the intended

license must be submitted to Papan Devnani, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 88-7056 Filed 3-30-88; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of New Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Mauritius

March 28, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing new limits.

EFFECTIVE DATE: April 1, 1988.

AUTHORITY: Executive Order 11651 of March 3, 1972, as amended; and Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports, posted on the bulletin boards of each Custom port. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION: The Governments of the United States and Mauritius have agreed in consultations to amend further their current Bilateral Textile Agreement, as amended, to establish new limits for Categories 337/637, 342/642/842 and 442.

A copy of the Bilaterial Textile Agreement, as amended, is available from the Textiles Division, Economic Bureau, U.S. Department of State, (202) 647-1997.

See 52 FR 22668, published in the **Federal Register** on November 10, 1987.

A description of the textile categories in terms of T.S.U.S.A. numbers is available in the CORRELATION: Textile and Apparel Categories with Tariff Schedules of the United States Annotated (see **Federal Register** notice 52 FR 47745, dated December 11, 1987).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 28, 1988.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive cancels and supersedes the directive of November 5, 1987 from the Chairman of the Committee for the Implementation of Textile Agreements, which established restraint limits for certain cotton and man-made fiber textile products in Categories 337/637 and 342/642, produced or manufactured in Mauritius and exported during the twelve-month periods which began, in the case of Categories 337/637 on June 18, 1987 and extends through June 17, 1988; and, in the case of Categories 342/642, on June 22, 1987 and extends through June 21, 1988.

Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); the Bilateral Textile Agreement of June 3 and 4, 1985, as amended, between the Governments of the United States and Mauritius; and in accordance with the provisions of the Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on April 1, 1988, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Mauritius and exported during the periods which began, in the case of Categories 337/637 and 342/642/842 on August 1, 1987; and, in the case of Category 442, on April 1, 1988; and extend through September 30, 1988.

Category	Import restraint limit [1]
337/637	140,000 dozen.
342/642/842	192,500 dozen.
442	5,344 dozen.

[1] The limits for Categories 337/637 and 342/642/842 have not been adjusted to account for any imports exported after July 31, 1987.

Textile products which have been exported to the United States prior to August 1, 1987 for Categories 337/637 and 342/642/842 and April 1, 1988 for Category 442 shall not be subject to this directive.

Textile products in Categories 442 and 842 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not not be denied entry under this directive.

These limits may be adjusted in the future under the provisions of the bilateral agreement.

Also effective on April 1, 1988, you are directed to make the following charges to the limits established in this directive for Categories 337/637 and 342/642/842. These charges are for the import period August 1, 1987 through January 31, 1988.

Category	Amount to be charged
337	6,320 dozen.
342	58,456 dozen.
637	2,279 dozen.
642	1,596 dozen.
842	265 dozen.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88-7072 Filed 3-30-88; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Sri Lanka

March 28, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: April 1, 1988.

Authority: Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

FOR FURTHER INFORMATION CONTACT: Kimbang Pham, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports, posted on the bulletin boards of each Customs port or call (202) 343-6580. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION: The current limit for Category 336 is being increased by application of swing. The limits for Categories 647 and 648 for the January 1, 1988 through May 31, 1988 period are being reduced to account for

the swing being applied to Category 336. As a result of the adjustments, the limit for Category 336, which is currently closed, will re-open.

A description of textile categories in terms of T.S.U.S.A. members is available in the CORRELATION: Textile and Apparel Categories with Tariff Schedules of the United States Annotated (see **Federal Register** notice 52 FR 47745, dated December 11, 1987). Also see 52 FR 18413, published on May 15, 1987 and 53 FR 52 and 53 FR 53, published on January 4, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 28, 1988.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 30, 1987 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton and man-made fiber textile products, produced or manufactured in Sri Lanka and exported during the period which began on January 1, 1988 and extends through May 31, 1988.

Effective on April 1, 1988, the directive of December 30, 1987 is hereby amended to adjust limits for cotton and man-made fiber textile products in the following categories, as provided under the terms of the bilateral agreement of May 10, 1983, as amended:

Category	Adjusted limit [1]
336	32,378 dozen.
647	220,666 dozen.
648	85,103 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1987.

The Committee for the Implementation of Textile Agreements had determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88-7073 Filed 3-30-88; 8:45 am]

BILLING CODE 3510-DR-M

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Request for Extension of Approval for Collection of Information About Product-Related Injuries

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 July 31, 1991, of a collection of information about product-related injuries.

Section 5(a) of the Consumer Product Safety Act (15 U.S.C. 2054(a)) requires the Commission to collect information related to the cause and prevention of death, injury, and illness associated with consumer products, and to conduct continuing studies and investigations of deaths, injuries, diseases, and economic losses involving consumer products. The Commission uses this information to support rulemaking proceedings, development and improvement of voluntary standards, information and education programs, and administrative and judicial proceedings to remove unsafe products from the marketplace and consumers' homes.

Persons who have been involved in or who have witnessed accidents associated with consumer products are an important source of information about deaths, injuries, and illnesses resulting from such accidents. From consumer complaints, newspaper accounts, death certificates, hospital emergency room reports, and other sources, the Commission selects a limited number of accidents for investigation. These investigations may involve face-to-face interviews with accident victims or witnesses, or telephone interviews with those persons.

Additional Details About the Requested Extension of Approval for Collection of Information

Agency Address: Consumer Product Safety Commission, Washington, DC 20207

Title of Information Collection: Follow-Up Activities for Product-Related Injuries.

Type of Request: Extension of approval.

Frequency of Collection: One time for each respondent.

General Description of Respondents: Persons who have been involved in, or who have witnessed, accidents associated with consumer products.

Estimated Number of Respondents: 3,000.

Total Estimated Number of Hours for All Respondents: 4,267.

Comments: Comments on this request for extension of approval for collection of information should be addressed to Pamella Barr, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; telephone (202) 395-7340. Copies of the request for extension of approval for collection of information are available from Francine Shacter, Office of Program Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492-6416.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: March 23, 1988.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 88-7044 Filed 3-30-88; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Board of Visitors, United States Military Academy; Open Meeting

In accordance with section 10(a)(20) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following meeting.

Name of Committee: Board of Visitors, United States Military Academy.

Dates of Meeting: May 9, 1988.

Place of Meeting: Washington, DC.

Start Time of Meeting: 9:00 a.m.

Proposed Agenda: Election of officers; selection of Executive Committee; scheduling of meetings for remainder of year; and identification of areas of interest for 1988.

All proceedings are open. For further information, contact Colonel Larry Donnithorne, United States Military Academy, West Point, New York 10996-5000, (914) 938-4723.

For the Board of Visitors:

Larry R. Donnithorne,

Col, En, Executive Secretary, USMA Board of Visitors.

[FR Doc. 88-6987 Filed 3-30-88; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Coastal Engineering Research Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Coastal Engineering Research Board.

Date of Meeting: May 2–6, 1988.

Place: Coastal Engineering Research Center, U.S. Army Engineer Waterways Experiment Station, Vicksburg, Mississippi.

Time: 1:00 p.m. to 5:00 p.m. on May 2; 8:00 a.m. to 5:00 p.m. on May 3; 8:30 a.m. to 4:00 p.m. on May 4; 8:30 a.m. to 4:00 p.m. on May 5; 8:30 a.m. to 12:00 noon on May 6.

Proposed Agenda: The 1989 Program Review is to be held the first week in May 1988. On Monday, May 2, the Coastal Research and Development Programs will be discussed. They include Coastal Flooding and Storm Protection, and Harbor Entrances and Coastal Channels.

Review of these programs continues on Tuesday, May 3, with the remainder of Harbor Entrances and Coastal Channels, Shore Protection and Restoration, and Coastal Structures Evaluation and Design.

On Wednesday, May 4, the Coastal Field Data Collection Program will be reviewed, including review of current and proposed activities.

The session on Thursday, May 5, reviews the Monitoring Completed Coastal Programs. There will be discussions of review of current and proposed activities.

On Friday, May 6, there will be a review of activities of the Coastal Geology and Geotechnology Program.

This meeting is open to the public, but since seating capacity of the meeting room is limited, advance notice of intent to attend, although not required, is requested in order to assure adequate arrangements for those wishing to attend.

Inquiries and notice of intent to attend the meeting may be addressed to Dr. James R. Houston, Chief, Coastal Engineering Research Center, U.S. Army Engineer Waterways Experiment Station, P.O. Box 631, Vicksburg, Mississippi 39180–0631.

Dwayne G. Lee,

Colonel, Corps of Engineers, Executive Secretary.

[FR Doc. 88–6988 Filed 3–30–88; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.073E]

National Diffusion Network Program; Application for New Dissemination Process Awards for Fiscal Year 1988

ACTION: Extension of Deadline Date for Transmittal of Applications.

The Secretary extends the deadline date for transmittal of applications from April 1, 1988 to June 1, 1988.

On January 28, 1988 the Secretary published in the **Federal Register** (53 FR 2532) a notice inviting applications for new Dissemination Process awards. Detailed information is included in that notice.

The purpose of this notice is to extend the closing date for transmittal of applications so that potential applicants may have additional time to complete their applications.

For Applications or Information Contact: Mrs. Linda Jones, U.S. Department of Education, 555 New Jersey Avenue NW, Room 510, Washington, DC 20208. Telephone: (202) 357–6153.

Program Authority: 20 U.S.C. 3851.

Dated: March 29, 1988.

Chester E. Finn, Jr.,

Assistant Secretary and Counselor to the Secretary.

[FR Doc. 88–7189 Filed 3–30–88; 8:45 am]

BILLING CODE 4000–01–M

[CFDA No. 84.128H]

Extension of the Closing Date for Transmittal of Applications for New Awards Under the Vocational Rehabilitation Service Projects for American Indians With Handicaps Program for Fiscal Year 1988

Deadline for Transmittal of Applications: The closing date for applications is extended from March 31, 1988 to April 14, 1988.

On December 21, 1987, a notice was published that established the closing date for transmittal of applications for the fiscal year 1988 competition under the Vocational Rehabilitation Service Projects for American Indians With Handicaps Program (52 FR 48375). Detailed information concerning this program was included in that notice. The purpose of this notice is to extend the closing date for transmittal of applications due to a delay in the availability of application packages.

For Applications or Further Information Contact: Mary Vest, Office of Developmental Programs, Rehabilitation Services Administration, U.S. Deparatment of Education, 400 Maryland Avenue, SW., Room 3332, (Switzer Building, M/S–2312), Washington, DC 20202. Telephone: 732–1343.

Program Authority: 29 U.S.C 750.

Dated: March 25, 1988.

Madeleine Will,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 88–7098 Filed 3–30–88; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CI75–311–002 et al.]

APX Western Corp. (Formerly Panhandle Western Gas Company); Corporate Name Change

March 25, 1988.

Take notice that on February 29, 1988, APX Western Corporation (APX), of P.O. Box 1330, Houston, Texas 77251–1330, filed an application pursuant to section 7(c) of the Natural Gas Act and § 154.94 of the Federal Energy Regulatory Commission's Regulations, notifying the Commission that Panhandle Western Gas Company has changed its name to APX Western Corporation.

Effective January 8, 1988, the corporate name of Panhandle Western Gas Company was changed to APX Western Corporation as evidenced by the Certificate of Amendment of Certificate of Incorporation dated January 6, 1988.

Notice is hereby given that all the certificates and related rate schedules as listed in the attached Exhibit "A" are hereby redesignated to reflect the corporate name change from Panhandle Western Gas Company to APX Western Corporation.

Lois D. Cashell,

Acting Secretary.

EXHIBIT "A".—APX WESTERN CORPORATION

Formerly: Panhandle Western Gas Company, FERC Gas Rate Schedule No. — Now: APX Western Corporation, FERC Gas Rate Schedule No.	Certificate Docket No.	Purchaser	State	County/Parish
1	CI 75-311	Panhandle Eastern Pipe Line Company	Colorado	Weld & Adams.
2	CI 78-333	do	Wyoming	Sweetwater
3	CI 78-1035	do	do	Do.
4	CI 78-1036	do	do	Do.
5	CI 78-1037	do	do	Do.
6	CI 78-1044	do	do	Do.
7	CI 78-1045	do	do	Do.
8	CI 78-957	do	do	Do.
9	CI 78-959	do	do	Do.
10	CI 78-958	do	do	Do.
11	CI 78-1107	do	do	Do.
12	CI 78-1127	do	do	Do.
13	CI 79-54	do	do	Do.
14	CI 79-612	do	do	Do.
15	CI 79-632	do	do	Do.

[FR Doc. 88-7102 Filed 3-30-88; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. G-5917-001 et al.]

EP Operating Co. (Successor to Enserch Exploration, Inc.); Petition To Amend Certificates and Redesignate Rate Schedules

March 25, 1988.

Take notice that on February 19, 1988, EP Operating Company (EPO), of 1817 Wood Street, Dallas, Texas 75201, filed an application for certificates of public convenience and necessity to render service previously authorized by the Commission under certificates of public convenience and necessity heretofore issued to a company then known as Enserch Exploration, Inc. (old EEI) as listed in the attached appendix and for redesignation of Enserch Exploration, Inc.'s related rate schedules as those of EP Operating Company.

EPO states that on April 26, 1985, old EEI was merged into its parent company, ENSERCH Corporation and on April 30, 1985, ENSERCH Corporation assigned all of the properties subject to the certificates of public convenience and necessity and rate schedules listed in the attached appendix to EPO, a newly-formed limited partnership. According to EPO a new Delaware corporation was formed with the name Enserch Exploration, Inc. to act as Managing General Partner of EPO.

Any person desiring to be heard or to make any protest with reference to said application should, on or before April 12, 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 Practices and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Lois D. Cashell,
Acting Secretary.

APPENDIX—CERTIFICATES AND RATE SCHEDULES TO BE REDESIGNATED

Gas rate schedule No.	Certificate docket No.	Purchaser	Well or field and county
55	G-5917	National Fuel Gas Supply	Sheridan Gas Unit, Colorado Co., TX.
71	C162-972	Northern Natural Gas	Lucy Boston #1, Beaver Co., OK.
79	C167-220	Arkansas Louisiana Gas Co	Johnnie Jones #1-9, Leflore Co., OK.
82	C167-1821	Panhandle Eastern Pipeline	Clay Gore #1, Dewey Co., OK.
84	C168-689	Texas Eastern Transmission	Whelan Field, Harrison Co., TX.
87	G-6304	do	Do
90	C170-326	do	Do
88	C169-1006	Natural Gas Pipeline Co. of America (NGPLA)	High Is. Blk. 129, Offshore, TX.
91 and 92	CP71-90	NGPLA	Buffalo Wallow, Hemphill Co., TX.
95	C172-524	Arkansas Louisiana Gas Co	Dunn B-1, Harrison Co., TX.
98	C171-819	NGPLA	Fashing Field, Atascosa Co., TX.
100	C173-380	United Gas Pipeline Co	Fagan Field, Refugio Co., TX.
101	C173-181	Nicor Supply Inc	Elk City—East Beckham and Washita Cos., OK.
107	C174-492	Arkansas Louisiana Gas Co	Wilburton, So., Latimer Co., OK.
108	C175-50	Northern Natural Gas Co	Sawyer (Canyon), Sutton Co., TX.
109, 110, 111, 112, and 113.	C175-387	NGPLA	S. Warwink, Ward Co., TX.
117	C175-426	Tennessee Gas Pipeline Co	Ship Shoal 154 Fld., Offshore, LA.
118	C175-645	NGPLA	Sawyer (Canyon), Sutton Co., TX.
120	C176-148	NGPLA	Hansford (Morrow), Hansford Co., TX.
121	C176-307	Transwestern Pipeline Co	Higgins, South, Hemphill Co., TX.

APPENDIX—CERTIFICATES AND RATE SCHEDULES TO BE REDESIGNATED—Continued

Gas rate schedule No.	Certificate docket No.	Purchaser	Well or field and county
122	C176-356	NGPLA	Warwink, So., Ward Co., TX.
123	C176-444	Cities Service Gas Co	H.H. Moore 1-27, Woodward Co., OK.
124	C177-128	Transwestern Pipeline Co	Higgins, So., Hemphill Co., TX.
125	C177-198	NGPLA	Bilberry #1, Jack Co., TX.
127	C178-167	NGPLA	High Is. 369/370, Offshore, TX.
129	C178-314	NGPLA	High Is. 327/332, Offshore, TX.
130	C178-315	NGPLA	High Is. 511, Offshore, TX.
131	C178-355	NGPLA	Sawyer (Canyon), Sutton Co., TX.
132	C178-1025	Panhandle Eastern Pipeline	Dilts-Cooke Fed. 1-1, Converse Co., WY.
133	C179-74	NGPLA	Lambirth #1, 3 & 4, Roosevelt Co., NM.
134	C179-231	NGPLA	Bonanza Field, Uintah Co., UT.

[FR Doc. 88-7103 Filed 3-30-88; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP88-80-000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

March 25, 1988.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on March 22, 1988, tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets:

First Revised Sheet No. 52
First Revised Sheet Nos. 53-99
First Revised Sheet No. 400
First Revised Sheet No. 482
First Revised Sheet No. 483
First Revised Sheet Nos. 484-599

Texas Eastern states that the purpose of this filing is to establish the procedures pursuant to which Texas Eastern will recover the take-or-pay charges approved by the FERC to be billed by United Gas Pipe Line Company (United) and paid by Texas Eastern under United's Docket No. RP88-27, plus any subsequent flow-through by either Texas Gas Transmission Corporation or Southern Natural Gas Company to Texas Eastern of a portion of their share of United's take-or-pay charges.

Texas Eastern states that on November 17, 1987, United filed in Docket No. RP88-27 tariff sheets to incorporate a fixed charge, herein called "Fixed Take-or-Pay Charge", designed to recover 50 percent of United's claimed take-or-pay costs from United's jurisdictional customers.

It further states that in an "Order Accepting and Suspending Tariff Sheets Subject to Refund and Conditions, Convening Technical Conference, Granting Late Interventions and Waiver, and Establishing Hearing," issued December 31, 1987 in Docket No. RP88-27, 41 FERC ¶ 61,381 (1987), the Commission directed United to refile its tariff sheets to remedy several defects in the November 17, 1987 filing. United made a filing in purported compliance with the Commission's December 31, 1987 order on February 3, 1988. A copy of that filing is included as Attachment A to Texas Eastern's filing in the instant docket, and incorporated by reference therein.

On February 18, it filed a motion to reject United's February 3, 1988 filing on the basis that (1) the total amount of take-or-pay costs claimed by United is improper, (2) United has not allocated take-or-pay costs to non-jurisdictional customers "on the same basis" as to jurisdictional customers as required by the December 31 order, nor on a deficiency basisas required by Order No. 500, and (3) United's allocation methodology improperly ignores the impact of customer's contract demand quantities on incurrence of take-or-pay costs. Nevertheless, Texas Eastern maintains that it must establish promptly the procedures to recover these additional costs charged by United if the Commission permits United to implement these additional charges.

Texas Eastern states that Sheet No. 52 sets forth the principal amount plus the allocation factor for carrying costs that each Texas Eastern customer will be required to pay in order to recover United's take-or-pay charges billed to Texas Eastern by United, or flowed through to Texas Eastern by Texas Eastern's other pipeline suppliers. Consistent with the Commission's February 29, 1988 order in *Mississippi River Transmission Corporation*, Docket No. TA88-2-25-000, ——FERC—— (1988), these principal amounts were developed by utilizing the same procedure that United developed in Docket No. RP88-27. In applying United's procedure, Texas Eastern has recognized interruptible purchases of Texas Eastern's customers during the relevant time periods. Workpapers setting forth Eastern's determination of the allocation factor for the principal amount (which includes a predetermined carrying charge) and a breakdown of the total and monthly principal amounts (which include a predetermined carrying charge) each Texas Eastern customer will be required to pay are set forth under Attachments B and C.

Texas Eastern states that if at any time United is permitted by Commission order to change its take-or-pay procedures and/or the amounts to be recovered pursuant thereto, Texas Eastern will likewise change its take-or-pay procedure and/or the amounts to be recovered pursuant thereto. In addition, Texas Eastern expressly agrees to refund to its customers all refunds received from United in Docket No. RP88-27.

The proposed effective date of the tariff sheets listed above is April 1, 1988.

Copies of the filing were served on Texas Eastern'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 (1987)). All such motions or protests should be filed on or before April 1, 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. 88-7104 Filed 3-30-88; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP88-81-000]

Texas Eastern Transmission Corp., Proposed Changes in FERC Gas Tariff

March 25, 1988.

Take notice that Texas Eastern Transmission Corportation (Texas Eastern) on March 24, 1988, tendered for filing the tariff sheets listed in Appendix A as part of its FERC Gas Tariff, Fifth Revised Volume No. 1 and Original Volume No. 2.

Texas Eastern states that the tariff sheets set forth (i) the rates, terms and conditions which Texas Eastern desires to have on file with the Commission, as required by 18 CFR 284.7 of the Commission's Regulations, to enable Texas Eastern at its election to render firm and interruptible self-implementing transporation pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) on an "open access" basis as required by Order No. 500 [1] and to render self-implementing transportation pursuant to 18 CFR 284.225 of gas released under the Commission's good faith negotiation procedures set forth in 18 CFR 270.201, and (ii) the proposed rates for Texas Eastern's other existing rate schedules reflecting the allocation to the proposed self-implementing transportation rate schedules of approximately $44.9 million of Texas Eastern's Docket No. RP85-177 settlement cost of service (settlement cost of service).

Texas Eastern submits that the rates and tariff sheets submitted satisfy the Commission's concerns as expressed in its February 8, 1988 Order Clarifying Prior Orders, Rejecting Filed Tariff Sheets, and Granting Motion for Practical Severance.[2]

Texas Eastern states that Sheet Nos. 300 through 315 and 326 through 337 set forth, respectively, the provisions of the new Rate Schedules FT-1 and IT-1 under which it will provide, at its election, self-implementing transportation pursuant to section 311 of the NGPA, or pursuant to 18 CFR 248.10, or 18 CFR 248.225. The FT-1 and IT-1 Form of Service Agreements are set forth on Sheet Nos. 676 and 681A and Sheet Nos. 735 through 742 respectively. Texas Eastern proposes to provide self-implementing transportation on a firm basis under Rate Schedule FT-1 and self-implementing transportation on an interruptible basis under Rate Schedule IT-1.

Texas Eastern also states that it is proposing limited revisions to its General Terms and Conditions necessary in order to reflect the addition of Rate Schedules FT-1 and IT-1, and to render transportation consistent with the requirements of Order No. 500 and the Commission's orders of December 19, 1986, October 15, 1987, and December 31, 1987 in Docket No. RP85-177. Texas Eastern states that while it is waiving the take-or-pay crediting provisions of Order No. 500 until at least June 1, 1988, it reserves the right to file revised tariff sheets to require such take-or-pay crediting offers prior to rendering transportation service under Rate Schedule FT-1 and IT-1 for transportation to be provided on June 1, 1988 or any date thereafter.

Texas Eastern states that the rates which it proposes to charge for service udner the new self-implementing transportation rate schedules set forth on Sheet No. 51 are based upon the settlement cost of service approved by the Commission in Docket No. RP85-177 by order dated February 8, 1988, which settlement allocated approximately $19,106,859 to be recovered pursuant to self-implementing transportation rate schedules. In the instant filing, Texas Eastern proposes to allocate an additional $25,839,547 of its settlement cost of service to the proposed self-implementing transportation rate schedules. In order to reflect the reduction in the settlement cost of service allocated to existing rate schedules, Texas Eastern proposes the rates shown on Sheet No. 50 of Fifth Revised Volume No. 1 and the Original Volume No. 2 tariff sheets included in the filing.

Texas Eastern states that upon issuance of the Commission's order establishing an effective date for Rate Schedule FT-1 and IT-1, on terms and conditions acceptable to Texas Eastern, it will notify all parties of record in this proceeding by telegram (Transportation Availability Notice) whether such order is acceptable to Texas Eastern and whether it is accepting requests for section 311 transportation. It further states that requests received prior to the first busiess day following the issuance of the Transportation Avialability Notice will not be processed and will be deemed moot. All requests for section 311 transportation received by Texas Eastern within five business days of the issuance of the Transportation Availability Notice shall, if the request is found to be complete and in compliance with the applicable tariff provisions, be deemed to have the same "first-come/first-served" priority of service as any other valid transportation request received in said five-day time period. Texas Eastern states all requests should be mailed to:

Texas Eastern Transportation Corporation, Attention: R.E. Davis, Vice President, Transportation Service, RE: Self-Implementing Transportation Request Form, 1331 Lamar, 4 Houston Center, P.O. Box 2521, Houston, Texas 77252.

Texas Eastern states that for the convenience of shippers, standardized request forms are available from Texas Eastern but that use of the standardized request form is not required by the tariff.

Texas Eastern requests the Commission to waive all necessary rules and regulations to permit the tariff sheets to become effective as of March 30, 1988. In particular, Texas Eastern requests that the Commission issue an order accepting these tariff sheets, with an effective date of March 30, 1988 on or before March 30, 1988.[3]

Copies of the filing have been served on Texas Eastern's jurisdictional customers and interested state commissions. Texas Eastern is also serving by overnight mail all prior shippers under Texas Eastern's Rate Schedule TS-3.

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 (1987)). All such motions or protests should be filed on or before April 1, 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

[1] Texas Eastern states that the filing is predicated upon its understanding that it is permitted pursuant to Commission policy and regulation to commence open-access transportation pursuant to section 311 of the NGPA and to cease such transportation without further Commission approval, and that the conversion rights pursuant to 18 CFR 284.10 may be exercised only during the period in which Texas Eastern is performing section 311 transportation.

[2] 42 FERC 61,174 (1988).

[3] Texas Eastern states that if Commission approval is obtained after March 30, 1988, it will nevertheless deem all requests for transportation received within five business days of the Transportation Availability Notice issued following such Commission approval as having the same "first-come/first-served" priority.

with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

Appendix A

Fifth Revised Volume No. 1

First Revised Sheet No. 1
Third Revised Sheet No. 50
Third Revised Sheet No. 50A
Third Revised Sheet No. 50B
Third Revised Sheet No. 50C
Third Revised Sheet No. 50D
Second Revised Sheet No. 51
Original Sheet No. 51A
Original Sheet No. 51B
Original Sheet No. 51C
Original Sheet No. 51D
First Revised Sheet No. 114
First Revised Sheet No. 300–316
First Revised Sheet Nos.. 326–337
First Revised Sheet Nos. 401–405
First Revised Sheet No. 421
First Revised Sheet No. 439
First Revised Sheet Nos. 442–443
First Revised Sheet Nos. 460–464
Second Revised Sheet Nos. 463–464
First Revised Sheet Nos. 466–467
First Revised Sheet No. 474
First Revised Sheet No. 600
First Revised Sheet Nos. 676–681
Original Revised Sheet No. 681A
First Revised Sheet Nos. 735–761

Original Volume No. 2

Thirtieth Revised Sheet No. 235
Twenty-second Revised Sheet No. 241
Thirtieth Revised Sheet No. 322
Ninth Revised Sheet No. 688
Seventh Revised Sheet No. 970
Seventh Revised Sheet No. 971
Eighth Revised Sheet No. 1017
Eighth Revised Sheet No. 1018
Fourth Revised Sheet No. 1274.

[FR Doc. 88–7105 Filed 3–30–88; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3357–T]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review, and is available to the public for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instruments.

FOR FURTHER INFORMATION CONTACT: Carla Levesque at EPA, (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Water

Title: Information Requirements for 404 State Permit Applications. (EPA ICR #020)

Abstract: Application Information Requirements are necessary to obtain sufficient information to determine if proposed discharges are in compliance with the 404(b)(1) Guidelines and, thus, may be permitted under the Clean Water Act.

Respondents: Private citizens, businesses, and State Governments.

Estimated Burden: 59,700 hours.

Frequency of Collection: On occasion.

Title: Prenotification Prior to Discharge or Reporting Pursuant to General Permit. (EPA ICR #1108)

Abstract: In certain circumstances, the State may require prenotification or reporting of activities conducted under a general permit. This advance notice or reporting is used to evaluate the individual and cumulative impacts of the general permit and can be used to modify ro revoke a general permit.

Respondents: Private citizens, businesses, and State Governments.

Estimated Burden: 1,000 hours.

Frequency of Collection: On occasion.

Title: Transmission of Information to Federal Agencies. (EPA ICR #1109)

Abstract: Section 404 of the Clean Water Act provides for Federal review of applications for State wetlands permits. The State will transmit the application information to EPA for transmission to the other Federal review agencies. EPA will evaluate all Federal comments and forward official Federal recommendations/objections to the State.

Respondents: Private citizens, businesses, and State Governments.

Estimated Burden: 2,500 hours.

Frequency of Collection: On occasion.

Title: 404 State Program Annual Report. (EPA ICR #1166)

Abstract: The State will annually review the administration of its approved 404 program. This review will include basic permit data, including number of applications received, issued, modified, or denied; assessment of cumulative impacts of the program and identification of problems encountered and recommendations for their resolution.

Respondents: Private citizens, businesses, and State Governments.

Estimated Burden: 2,000 hours.

Frequency of Collection: Annually.

Comments on the ICRs should be sent to:

Carla Levesque, U.S. Environmental Protection Agency, Information Policy Branch (PM–223), 401 M Street SW., Washington, DC 20460

and

Timothy Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place NW., Washington, DC 20503, (Telephone (202) 395–3084).

Date: March 23, 1988.

Odelia Funke,

Acting Director, Information and Regulatory Systems Division.

[FR Doc. 88–7068 Filed 3–30–88; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–140093; FRL–3357–9]

Access to Confidential Business Information by Arthur D. Little, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Arthur D. Little, Inc., (ADL) of Cambridge, MA for access to information which has been submitted to EPA under sections 5 and 6 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

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

SUPPLEMENTARY INFORMATION: Under TSCA, EPA must determine whether the manufacture, processing, distribution in commerce, use, or disposal of certain chemical substances or chemical mixtures may present an unreasonable risk of injury to human health or the environment. New chemical substances, i.e., those not listed on the TSCA Chemical Substances Inventory, are evaluated by EPA under section 5 of TSCA. Existing chemical substances, i.e., those listed on the TSCA Inventory, are evaluated by the Agency under sections 4, 6, and 8 of TSCA.

Under contract number 68–03–3293, EPA's contractor ADL, 25 Acorn park, Cambridge, MA will assist the Office of Research and Development, (ORD), in developing, evaluating and improving

standards for the development and production of chemical protective clothing and equipment. ADL will also assist in generating procedures to enhance the safety and cost-efficiency of working conditions.

In accordance with 40 CFR 2.306(j), EPA has determined that under contract number 68–03–3293 contractor ADL will require access to CBI submitted to EPA under sections 5 and 6 of TSCA to perform successfully the duties specified as a contractor.

Clearance for access by ADL to TSCA CBI under this contract is scheduled to expire on September 30, 1989.

EPA is issuing this notice to inform all submitters of information under sections 5 and 6 of TSCA that EPA may provide ADL access to these CBI materials on a need-to-know basis. All access to TSCA CBI under this contract will take place at EPA Headquarters facilities.

ADL personnel will be required to sign non-disclosure agreements, will be briefed on appropriate security procedures, and must pass a test on those security procedures before they are permitted access to TSCA CBI.

Dated: March 23, 1988.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 88–7070 Filed 3–30–88; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Implementation Subcommittee of the FCC Advisory Committee on Advanced Television Service; Meeting

The second meeting of the Implementation Subcommittee of the FCC Advisory Committee on Advanced Television Service will be held on April 25, 1988, in the Commission Meeting Room (Room 856) at 1919 M Street NW., Washington, DC, beginning at 1:00 p.m. All interested persons are invited to attend. Those interested also may submit written statements at the meeting. Oral statements and discussion will be permitted under the direction of the Subcommittee Chairman.

The agenda for the second meeting will consist of:

1. Introduction
2. Approval of Minutes of Last Meeting
3. Report of Working Party 1—Policy and Regulation
4. Report of Working Party 2—Transition Scenarios
5. General Discussion
6. Other Business
7. Date and Location of Next Meeting
8. Adjournment

Any questions regarding this meeting should be directed to Implementations Subcommittee Chairman Dr. James J. Tietjen, (609) 734–2237, or Mr. David Siddal, (202) 632–7792.

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88–7017 Filed 3–30–88; 8:45 am]

BILLING CODE 6712–01–M

[MM Docket No. 88–97]

Applications for Consolidated Hearing; Don H. Barden et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City, and State	File No.	MM Docket No.
A. Don H. Barden; Vassar, MI.	BPH–860507MG...	88–97
B. Julie G. Wrenn; Vassar, MI.	BPH–860507MH...	
C. Michael Joseph Shumpert; Vassar, MI.	BPH–860507MI ...	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized as is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below applicant.

Issue Heading	Applicants
1. Air Hazard	A, B.
2. Comparative	All Applicants.
3. Ultimate	All Applicants.

3. If there are any non-standardized issues in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an Apendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal busiess hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88–7018 Filed 3–30–88; 8:45 am]

BILLING CODE 6712–01–M

[MM Docket No. 88–91]

Applications for Consolidated Hearing; JBD, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City, and State	File No.	MM Docket No.
A. JBD Incorporated; Harrogate, TN.	BPH–851114MG...	88–91
B. Donald Lee Miracle and Verlan Lee Gray; Harrogate, TN.	BPH–851115MO...	
C. Linda F. McCulley; Harrogate, TN.	BPH–851115NF....	
D. New South Communications, Ltd.; Harrogate, TN.	BPH–851115MM (Dismissed Herein).	
E. Harrogate Broadcast Group, Inc.; Harrogate, TN.	BPH–85111MN (Previously Dismissed).	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading	Applicants
1. Comparative	A, B, C
2. Ultimate	A, B, C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor,

International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88–7019 Filed 3–30–88; 8:45 am]

BILLING CODE 6712–01–M

[MM Docket No. 88–94]

Applications For Consolidated Proceeding; David O'Connor et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City, and State	File No.	MM Docket No.
A. David O'Connor; Fredonia, New York.	BPH–851114ME	88–94
B. Chautauqua Communications Corporation, Inc.; Fredonia, New York.	BPH–851114MF	
C. Catoctin Broadcasting Corporation; Fredonia, New York.	BPH–851115MG	
D. Hector Rivera & Vincent T. Ridikas d/b/a Chautauqua Radio Limited Partnership; Fredonia, New York.	BPH–851115MH	
E. Lake Shore Broadcasting Company, Inc.; Fredonia, New York.	BPH–851115MI	
F. Robert M. Bennett; Fredonia, New York.	BPH–851115MJ	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicants

1. Misrepresentation, C
2. Contingent Misrepresentation, C
3. Air Hazard, E
4. Comparative, All
5. Ultimate, All

3. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88–7020 Filed 3–30–88; 8:45 am]

BILLING CODE 6712–01–M

[MM Docket No. 88–93]

Applications For Consolidated Hearing; Old Eureka Broadcasting, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City and State	File No.	MM Docket No.
A. Old Eureka Broadcasting, Inc.; Lakeville, MN.	BPH–860314MH	88–93
B. Gayle M. Gjovik; Lakeville, MN.	BPH–860317MN	
C. Lakeville Broadcasting Foundation; Lakeville, MN.	BPH–860317MO	
D. Lakeville Broadcasting, Inc.; Lakeville, MN.	BPH–860317MP	
E. Family Stations, Inc.; Lakeville, MN.	BPH–860317MQ	
F. Southern Twin Cities Area Radio, Inc.; Lakeville, MN.	BPH–860317ML (Dismissed)	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated preceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347 (May 29, 1986). The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicants

1. Air Hazard, B,C
2. Comparative, A-E
3. Ultimate A-E

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88–7021 Filed 3–30–88; 8:45 am]

BILLING CODE 6712–01–M

[MM Docket No. 88–100]

Applications For Consolidated Proceeding; Sierra Shingle Springs Broadcasting, et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City, and State	File No.	MM Docket No.
A. Sierra-Shingle Springs Broadcasting; Shingle Springs, CA.	BPH–860926MC	88–100
B. Donna M. Crosson; Shingle Springs, CA.	BPH–860929MA	
C. Chris W. Kidd and James O'Brien d/b/a Kidd Broadcasting Company; Shingle Springs, CA.	BPH–860929MG	
D. Leo Kesselman; Shingle Springs, CA.	BPH–860929MH	
E. Robert Simpson; Shingle Springs, CA.	BPH–860929MI	
F. Los Banos Broadcasting; Shingle Springs, CA.	BPH–860929MJ	
G. Lobster Communications Corporation; Shingle Springs, CA.	BPH–860929MK	
H. Tours Broadcasting Company; Shingle Springs, CA.	BPH–860930MC (Previously Dismissed).	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicants

1. Comparative, All
2. Ultimate, All

3. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW, Washington, DC 20037 (Telephone No. (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88–7022 Filed 3–30–88; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 88–98]

Applications for Consolidated Hearing; Wiregrass Educational Radio, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City, and State	File No.	MM Docket No.
A. Wiregrass Educational Radio, Inc.; Dothan, AL.	BPED–860806ML.	88–98
B. James Smith Ministries; Dothan, AL.	BPED–861031ME.	
C. Bethany Bible College & Bethany Theological Seminary, Inc.; Dothan, AL.	BPED–861229MH.	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. (See Appendix), B
2. Air Hazard, A, C
3. Comparative-Noncommercial Educational FM, All
4. Ultimate, All

3. If there is any non-standardized issues in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

To determine: (a) Whether B (Smith) complies with the licensing requirements and service provisions of 47 CFR 73.503 of the Rules, and (b), in light of the evidence adduced pursuant to the foregoing issue, whether B (Smith) is qualified to construct and operate the requested facilities as proposed.

[FR Doc. 88–7023 Filed 3–30–88; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 88–92]

Applications For Consolidated Hearing; William L. Zawila et al.

1. The Commission has before it the following mutually exclusive applications for a new AM station:

Applicant, City, and State	File No.	MM Docket No.
A. William L. Zawila; Templeton, CA.	BP–851126AF.....	88–92
B. Garry &Virginia Infante Brill; Templeton, CA.	BP–860627AD	
C. Marlene V. Borman; Lake Isabella, CA.	BP–860724AE.....	
D. Jerry J. Collins; Atascadero, CA.	BP–860218AJ ..... (Dismissed).....	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Site Availability, A
2. Blanketing (§ 73.24)(g), A,B
3. 307(b), A,B,C
4. Contingent Comparative, A,B,C
5. Ultimate, A,B,C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88–7024 Filed 3–30–88; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC, Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No. 224–200078–001.

Title: Maryland Port Administration Terminal Agreement.

Parties: Maryland Port Administration, Clark Maryland Terminals, Inc.

Synopsis: The proposed agreement will provide a special credit to Orient Overseas Container Line, Inc. (OOCL) of $50 per container for containers loaded/unloaded from OOCL oceangoing vessels and drayed to/from Conrail or CSX facilities in Baltimore. The credit applies only to containers moving between Baltimore and the inland points of Chicago, Louisville, or Detroit.

Agreement No. 224–200103.

Title: Georgia Ports Authority Terminal Agreement.

Parties: Georgia Ports Authority (GPA), A/S Ivarans Rederi.

Synopsis: The proposed agreement provides that GPA will provide container handling services at Savannah, Georgia for A/S Ivarans Rederi at a consolidated rate of $123.00 per container.

Agreement No. 224–010968–001.

Title: Maryland Port Administration Terminal Agreement.

Parties: Maryland Port Administration (MPA), Hapag-Lloyd Ag/Atlantic Division.

Synopsis: The proposed agreement amends the basic agreement to reflect MPA discounts of billings for port charges by $50.00 per container for loaded containers moved by Hapag-Lloyd into and out of the Port of Baltimore (the Port) and drayed to either the CSX or CONRAIL railheads in Baltimore. The discount is restricted to containers moving in either direction by rail between the Port and Louisville, Kentucky; Chicago, Illinois or Detroit, Michigan.

By Order of the Federal Maritime Commission.

Dated: March 28, 1988.

Joseph C. Polking,

Secretary.

[FR Doc. 88–7036 Filed 3–30–88; 8:45 am]

BILLING CODE 6730–01–M

Inquiry Into Laws, Regulations and Policies of the Republic of Korea Affecting Shipping in the United States/Korea Trade

March 28, 1988.

By service of an order pursuant to section 15 of the Shipping Act of 1984, 46 U.S.C. app. 1714, ("Sectionf 15 Order") on April 14, 1987, the Federal Maritime Commission ("Commission" or "FMC") initiated an inquiry into the existence and impact of laws, regulations and rules of the Government of the Republic of Korea ("ROK") affecting the ancillary maritime activities carried on in the ROK by common carriers serving the U.S. foreign trade with Korea ("Trade"). The Commission here reports on the information it has received in response to its section 15 Order and requests further comments and data from interested parties.

Background

In its section 15 Order, the Commission noted its responsibilities pursuant to section 19(1)(b) of the Merchant Marine Act, 1920, 46 U.S.C. app. 876, ("Section 19") to act in response to unfavorable conditions affecting shipping in the U.S. foreign trades. The Commission expressed its concern that laws, regulations or rules, as well as policies or interpretations by administrative authorities, which prevent U.S.-flag and other non-ROK-flag carriers from establishing, owning or operating ancillary maritime activities in the manner they believe to be most efficient for their Trade operations unfairly burden these carriers and may result in conditions unfavorable to shipping within the meaning of section 19. In order to inform itself as to the existence and actual impact of such laws, rules, regulations and policies, the Commission requested each of the non-ROK-flag carriers serving the Trade to respond to a series of questions concerning ROK laws, regulations, administrative interpretations and policies affecting specific areas of shore-side shipping operations, as well as the possibly discriminatory impact of laws and regulations dealing generally with taxation of shipping revenue, immigration and business operations.

There appeared to be a number of ROK-generated obstacles to the carriers' efficient operation of container services in the ROK. The major problems which appeared to exist were organizational restrictions on the carriers which require operation through a Korean-owned general agent and prevent non-ROK-flag carriers from performing their own sales, marketing, contracting, warehousing, trucking and equipment maintenance and repair functions; the "waiver" system of cargo preference for ROK-flag carriers;[1] and restrictions which prevent ownership and operation of terminal facilities by non-ROK-flag carriers. Attempts to form an organization, the "Korean Foreign Steamship Owners Association," through which to express the collective views of non-ROK-flag carriers to the ROK Government had also been unsuccessful due to the refusal of the Korean Maritime Port Administration ("KMPA") to register its charter.

The Department of State ("DOS") and the Department of Transportation ("DOT") also were requested to provide the Commission with information regarding their past and current talks with the ROK Government on these maritime issues. At the same time that information was sought from carriers operating in the Trade through the section 15 Order, the views of other interested persons were solicited through a Notice Published in the **Federal Register** (52 FR 13520, April 23, 1987).

Discussions between the U.S. and the ROK government representatives on shipping matters were held on May 6–7, 1987. The U.S. delegation led by Administrator John Gaughan of the Maritime Administration ("MARAD") met with an ROK delegation chaired by KMPA Deputy Administrator Hahn Tae-Youl. The Agreed Minutes of those talks reflect a commitment by the ROK Government to revise the necessary laws and regulations to permit the operation within Korea of branch offices of U.S.-flag carriers which may conduct direct business activities, including cargo booking, marketing, negotiation and contracting for warehousing and railroad services. These authorizing revisions were to be effected by January 1, 1988, or "at the earliest possible date in 1988" based upon the utmost effort of the ROK Government. The Agreed Minutes reflected no progress with respect to ROK prohibition of foreign participation in trucking operations within Korea. The ROK did, however, agree to remove all discrimination against U.S.-flag carriers in the operation of container terminals, berthing terms and CFS facilities. Agreement to permit the formation of a foreign carriers' association was also reached in these meetings.

These developments were reported to the Commission by then Deputy Secretary of Transportation Jim Burnley and Deputy Assistant Secretary of State Jeffrey N. Shane in their responses to letters from former FMC Chairman Edward V. Hickey, Jr. requesting information.

Responses to the Section 15 Order

All of the carriers served with the section 15 Order responded to it. The only comment received in response to the Federal Register Notice was from the members of the U.S. Flag Far East Discussion Agreement, FMC No. 203–010050 ("Agreement No. 10050").

Responses to the Section 15 Order collectively detail the various laws, rules and regulations which govern the carriers' operations in the ROK. Less information is provided regarding the impact of these enactments on the manner in which the various carriers

[1] Navios Management, Inc., d/b/a Pacific America Line (PACAM), a carrier by water in the Trade, has filed a petition under section 19 alleging that conditions unfavorable to shipping have been created by the waiver system of cargo preference for ROK-flag carriers with respect to the carriage of steel products. By Notice of Filing of Petition published in the **Federal Register** on March 16, 1988, 53 FR 8697, the Commission requested interested persons to file comments, views and data on the petition within 30 days. This petition, and the waiver system to which it relates, will be treated as a separate matter from this inquiry.

might otherwise wish to operate in Korea, or the effect on shipping generally in the Trade.

Most of the carriers who responded evinced little interest in conducting the shoreside maritime activities into which the Commission inquired and provided little or no information concerning the specific legislation, regulations or agencies which govern such activities. Detailed and informative responses, however, were received from a few of the carriers. English language copies of most of the relevant enactments have been provided by one carrier or another.

A complex pattern of legislation, regulations and administrative agency oversight affecting the transaction of maritime-related business activities in the ROK emerges upon analysis of the carriers' responses. Some 10 laws and 6 sets of implementing decrees have been identified. The laws, regulations and administrative responsibilities which most affect ancillary maritime operations in the ROK are summarized below.

The Road Carriage Vehicles Act (1962, as amended) reportedly requires the registration of motor vehicles with the ROK Ministry of Transportation ("MOT") and prohibits operation of a vehicle unless it is registered. Article 4 of that Act is said to require that registration be withheld for any vehicle intended for business use unless the business is registered under the Automobile Transportation Business Act. The Automobile Transportation Business Act (1961, as amended), regulates the carriage of cargo by motor vehicle within Korea. Article 4 of that Act reportedly requires that such business must be licensed and registered with the MOT.

The Foreign Capital Inducement Act (1983, as amended), governs the investment in or acquisition of an equity interest in any business by a non-ROK national or company. Article 7 of that Act permits foreign investment except when it equals or exceeds a 50 percent interest or when it is in a project in which foreign investment is "restricted." Projects in which foreign investment is restricted are to be identified and notice of them published by the Minister of Finance ("MOF") in consultation with the competent minister for the industry affected. Foreign investment in such projects may nevertheless be granted upon request under such conditions as the MOF deems necessary. Article 9 prohibits foreign investments in projects to be carried out by the nation or public entities.

Guidelines For Foreign Investment, Ministry of Finance Notification 87–6), (April 6, 1987), contains guidelines for Government approval of foreign investment issued pursuant to Article 3 of the Foreign Capital Inducement Act. The Guidelines constitute the so-called "negative list" of projects in which foreign investment is restricted pursuant to Article 7 of the Foreign Capitol Inducement Act or prohibited pursuant to Article 9. The transportation enterprises on the list of prohibited projects, listed with the "relevant ministry," include port operation (KMPA). The far more extensive list of restricted projects includes: freight transport, regularly scheduled (MOT); special freight transport, non-regularly scheduled (MOT); general local freight transport (MOT); local general cargo pick-up delivery transport (MOT); freight transport by road, N.E.C. (MOT); freight terminal services (MOT); land stevedoring (MOT); supporting services to land transport, N.E.C. (MOT); freight forwarding (MOT/KMPA); freight brokerage (MOT/KMPA); and services incidental to transport, N.E.C. (KMPA).

The Maritime Transportation Business Act, (1983, as amended), regulates the maritime transportation business including freight forwarding, shipping agency, vessel chartering, maritime cargo and passenger transportation, vessel managing and maritime cargo brokering. Enterprises engaging in such businesses must be licensed by the KMPA. Article 35 of that Act specifies as one of the conditions for registration of a business to conduct freight forwarding, vessel management, vessel chartering, shipping agency or maritime cargo brokering, that the equity be entirely Korean owned, except that foreign investment in a vessel chartering enterprise is permitted but may not exceed 49 percent.

The Maritime Transportion Industry Fostering Act, (1967, as amended), requires the annual establishment of a plan for fostering the maritime transportation industry. Article 16 of that Act requires that "designated cargoes" (to be designated by Presidential Decree) move on ROK-flag vessels. Under the Maritime Transportation Industry Fostering Act Enforcement Decree and Enforcement Regulations, goods designated in the Decree may reportedly move only on ROK-flag vessel unless freight exceeds 110 percent of the low bid for such movements. KMPA is authorized to "designate" additional categories of goods. Designated cargoes reportedly include imports of crude oil; raw materials for the manufacture of steel and chemicals; fertilizer; grain; coal; refrigerated cargoes for agricultural, fish or dairy associations; LNG; and government cargoes. Designated export cargoes reportedly include cement and steel products. KMPA Notice No. 85–15, *Operating Guidelines for Regulations for Adjustment of Cargo Carriage by Korean Flag Vessels* (March, 1985), establishes procedures for compliance with the Maritime Transportation Industry Fostering Act and Enforcement Decree and regulations thereunder, including provision for obtaining waivers through the Korean Shipowners Association for the carriage of designated cargoes when no ROK-flag vessels serve the area or are available.

The Harbor Act (1967) reportedly requires that port facilities be ROK Government owned. There is apparently also a Harbor Transportation Business Act whose content and effect were not further identified in the responses.

The Alien Land Acquisition Act, (1961, as amended), states that acquisition of land by non-ROK nationals or companies must be approved in advance by the Minister of Home Affairs. Approval may be denied or conditioned as necessary for reasons of national defense, industry or other public purpose. Article I of the Alien Land Acquisition Act Enforcement Decree, (1970, as amended), reportedly requires the Ministry of Home Affairs to expedite approval of land purchases by business enterprises approved by the MOF under the Foreign Capital Inducement Act.

The Customs Act, Section 3: Licensed Bonded Areas, regulates the establishement and requires licensing of bonded storage areas for goods to be subjected to customs clearance procedures, and bonded warehouses for storage of foreign goods. The Customs Act requires that one wishing to transport goods from one bonded area to another must be licensed to do so by the customs collector and must file a manifest for each such movement. Article 3 of the Storage Business Act reportedly requires a license to operate a container terminal for which application must be made to the KMPA.

The Foreign Exchange Control Act, (1961, as amended), requires that contracts for services between non-ROK nationals and ROK nationals be approved in advance by the MOF. Article 21 of that Act requires that remittance of currency out of Korea must be in conformity with MOF regulations. Foreign Exchange Control Act Enforcement Decree, Article 33, also requires that contracts for services between foreigners and ROK nationals be approved in advance by the MOF. Ministry of Finance Regulations under the Foreign Exchange Control Act reportedly require at Articles 16–1 and

16–8 that the establishment of a branch office in Korea by a foreign enterprise must be reported in advance to the Bank of Korea if the branch office will remit profits out of Korea.

Discussion

The responses to the Section 15 Order thus detail an interlocking fabric of enactments that, by preserving certain business opportunities in the ROK for Korean nationals, may effectively handicap non-Korean international shipping lines in their competition with ROK-flag carriers. For example, regulation of the trucking industry appears to be contained in the Automobile Transportation Business Act and the Road Carriage Vehicles Act. The latter requires that any vehcile to be used for the business of cargo transportation be registered with the Ministry of Transportation, which will not register any such vehicle if the business enterprise itself has not been registered and approved under the Automobile Transporation Business Act. Neither of these Acts prohibits foreign nationals or companies from entering the business. However, another statute, the Foreign Capital Inducement Act, regulates the degree to which foreign nationals and companies may engage in economic activity within Korea. This Act authorizes the Ministry of Finance in conjunction with other appropriate concerned government authorities, to identify and give public notice of business activities in which foreign investment is "restricted".[2] Foreign investment in the businesses listed apparently is limited to participation under criteria which may be promulgated by MOF for some industries in consultation with other authorities, and then only with prior MOF approval.

All forms of cargo transportation by motor vehicle are on the list published by the MOF, and the MOT is shown as the concerned ROK Government authority. As a practical matter, several carriers report, no foreign participation in businesses reflected on the "restricted" or "negative" list has ever been permitted. It appears, therefore, that non-ROK-flag carriers cannot own or operate trucking services to provide pick-up and delivery of cargo within Korea, or to dray loaded containers to and from the docks. One further apparent result of this fabric of laws, decrees, and administrative interpretations is that U.S. carrier-owned container chassis cannot be registered in the carriers' names, but must be transferred in some fashion to the Korean-owned trucking companies with whom they must contract for trucking services.

The ways in which the various enactments may hamper and restrict those non-ROK-flag carriers who wish to carry on their own ancillary maritime activities and are willing to make the significant investment necessary for such operations are discernible. Although, as is also clear from the responses, most of the carriers operating in the Trade do not envision undertaking such operations and do not desire to make such investments, the U.S.-flag carriers are among those few who do.[3]

While the responses reflect the discriminations practiced, they are far less detailed or informative as to any detrimental impacts these practices visit on U.S. interests protected by Section 19. The responses contain little quantitative information regarding the costs to the carriers of operating under the constraints imposed by these enactments rather than their preferred manner of operations, such as, for example, the costs of using Korean agents as opposed to the costs of these operations performed in-house in other countries. Nor did the Commission's **Federal Register** Notice elicit *any* response from shippers who believed themselves disadvantaged by the non-ROK-flag carriers' inability to provide these services. Nevertheless, the record thus far compiled by the Commission with respect to the laws and practices of the ROK suggests that conditions unfavorable to shipping exist in the Trade.

It should, however, be noted that in May 1987, the ROK undertook to make changes in these laws and practices which could significantly affect and apparently resolve at least some of these conditions. As reflected in the Agreed Minutes of the May talks, the ROK side agreed to permit the establishment of branch offices by U.S.-flag carriers in Korea to act as full-service shipping agencies, which may directly engage in sales, marketing, contracting, negotiations with railroads and trucking firms and contracting for warehousing. These measures, including legislative changes, were to become effective January 1, 1988 or "at the earliest possible date in 1988." The ROK also agreed to end all discriminatory practices concerning the use of container yards and CFS facilities and berthing rights at Pusan.[4] Approval of the Korean Foreign Steamship Owners Association (to be named the "Association of Foreign Shipowners Representatives") was agreed to by the ROK.

Although the participation of U.S.-flag carriers in inland trucking operations and the ownership of container terminals by U.S.-flag carriers were also discussed, no progress was made on these issues.

The timing of changes to be undertaken following the May 1987 talks appears to have suffered some slippage. These issues were most recently addressed in talks held in November 1987 in Seoul, by a U.S. delegation representing the Departments of State and Transportation and representatives of the ROK. In a recent letter to inform the Commission of the results of these talks, Maritime Administrator Gaughan reported that legislative action and implementing regulations to be undertaken by the ROK Government to permit U.S. flag carriers to open and operate branch offices could be expected by June 30, 1988.

The Commission is heartened by the progress which has been made with respect to the equal treatment of U.S.-flag and ROK-flag carriers in the use of container yards and other port facilities at Pusan, and expects that further progress will emerge as a result of legislative and regulatory changes which the ROK Government has committed itself to make. Nevetheless, the Commission continues to be concerned with practices and activities of the ROK affecting ancillary maritime activities in the Trade, particularly with respect to the trucking of containers. We are also concerned that some uncertainty appears to exist as to the precise nature and extent of the activities which having branch office status will permit U.S.-flag carriers to undertake. These issues will, no doubt, be clarified once the legislative changes contemplated by the ROK Government are in place.

Intergovernmental consultations are again scheduled to take place when a delegation representing the U.S. Departments of Transportation/MARAD and State visit Korea next month. It is hoped that further progress on the outstanding issues will be made, and that at least some clarification of the

[2] The Foreign Capital Inducement Act also prohibits foreign investment in activities to be undertaken by the ROK. Another enactment, the Harbor Act, apparently reserves for national or local governments the authority to build or operate piers and harbors. The concerned ROK authority, KMPA, interprets this to include on-dock CY/CFS facilities, thus precluding foreign-flag carriers from providing these services.

[3] However, this is not to say that other major operators would not take advantage of, and benefit competitively from, liberalization of these restrictive practices.

[4] These measures were completed by the ROK effective on February 1, 1988.

status of non-ROK carriers to be expected from the proposed legislative actions will be clarified in these discussions. The Commission has communicated these concerns by a letter to Maritime Administrator Gaughan, and has requested early notification of the outcome of these meetings.

While the Commission has decided not to initiate action pursuant to section 19 at this time, based on the ROK's commitments and the progress on some of these issues which has been realized or is expected, the Commission will reassess the need for such action later this year after the ROK Government has had the opportunity to fully act on its May 1987 commitments. To assist the Commission in this inquiry, interested parties, including those carriers affected by the relevant ROK laws, rules and policies, are requested to submit information, comments and data concerning the current status and effects of ROK laws, rules and policies on the operations of international ocean carriers in the ROK on or before July 15, 1988.

By the Commission.[5]

Joseph C. Polking,

Secretary.

Dissenting Opinion of Commissioner Ivancie

The response to the section 15 order reveals some progress in the areas of concern to the Commission. It appears that the issue relating to the formation of a foreign shipowners' association seems to have been favorably resolved. Similarly, information in the record seems to indicate that some of the preferential treatment afforded to Korean-flag carriers in their use of container yards, terminals and container freight stations has been ended. In addition, the intergovernment consulations between representatives of both countries seem to indicate a willingness on Korea's part to try to accommodate most of the Commission's concerns.

However, in spite of these developments, many important areas of concern to the Commission remain unresolved. Non-ROK nationals cannot own or operate trucking services to provide short-haul services in Korea. Non-ROK nationals cannot register their chassis in their names but must, instead, transfer this equipment to Korean-owned trucking companies. In addition, non-ROK nationals cannot operate their own branch offices in Korea. Instead they must appoint a Korean-national "general agent". Clearly, these restrictions seem to impose unfair and discriminatory restrictions on non-Korean nationals that, in my view, constitute conditions unfair to shipping within the meaning of section 19 of the Merchant Marine Act of 1920.

Since the responses to the Commission's inquiry seem to reveal that conditions unfavorable to shipping exist in the Trade, I would have authorized the initiation of a notice of proposed rulemaking pursuant to section 19 of the Merchant Marine Act of 1920 against the unfair shipping practices that exist in Korea with respect to Korea's restrictions in relation to (1) the operation of branch offices, (2) short-haul trucking, and (3) equipment registration issues.

[FR Doc. 88-7111 Filed 3-30-88; 8:45 am]

BILLING CODE 6730-01-M

[5] Commissioner Ivancie's dissenting opinion is attached.

FEDERAL RESERVE SYSTEM

Affiliated Banc Corp. 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 April 21, 1988.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Affiliated Banc Corporation,* Holyoke, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of Vanguard Savings Bank, Holyoke, Massachusetts.

2. *Citizens Financial Group, Inc.,* Providence, Rhode Island; to acquire 100 percent of the voting shares of Citizens Savings Bank, Providence, Rhode Island.

B. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Community First Financial, Inc.,* Maysville, Kentucky; to acquire 66.70 percent of the voting shares of The Citizens National Bank, Ripley, Ohio.

2. *Farmmerc, Inc.,* Caldwell, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Farmers and Merchants Bank, Caldwell, Ohio.

C. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Delmar Bancorp,* Delmar, Maryland; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Delmar, Delmar, Maryland.

2. *Golden Bancorp, Inc.,* Milton, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of The Commercial Bank of Bluefield, Bluefield, West Virginia. Comments on this application must be received by April 15, 1988.

D. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Ready Bancorp, Inc.,* Hialeah, Florida; to become a bank holding company by acquiring 80 percent of the voting shares of Ready State Bank, Hialeah, Florida.

E. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Comerica Incorporated,* Detroit, Michigan; to acquire 100 percent of the voting shares of Grand Bancshares, Inc., Dallas, Texas, and thereby indirectly acquire Grand Bank R.L. Thornton at Grand, Dallas, Texas; Grand Bank, N.A., Dallas, Texas; and Grand Bank Northeast, Dallas, Texas.

2. *First Peoria Corp.,* Peoria, Illinois; to acquire 100 percent of the voting shares of Farmers State Bank of Benson, Benson, Illinois.

3. *Midwest Financial Group, Inc.,* Peoria, Illinois; to acquire 100 percent of the voting shares of First Morton Bancorp, Inc., Morton, Illinois, and thereby indirectly acquire First National Bank of Morton, Morton, Illinois.

F. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice

President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Junction City Bancshares, Inc.*, Junction City, Kansas; to become a bank holding company by acquiring 86.68 percent of the voting shares of Junction City First National Company, Junction City, Kansas, and thereby indirectly acquire The First National Bank & Trust Company of Junction City, Junction City, Kansas.

G. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Gustine-DeLeon Bancshares, Inc.*, Gustine, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of The First State Bank, Gustine, Texas.

Board of Governors of the Federal Reserve System, March 25, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-6980 Filed 3-30-88; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the Offices of the Board of Governors. Comments must be received not later than April 15, 1988.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Donald C. Bauerle, Sr.*, Cashiers, North Carolina; to acquire up to 19.9 percent of the voting shares of Carolina Mountain Holding Company, Highlands, North Carolina, and thereby indirectly acquire Carolina Mountain Bank, Highlands, North Carolina.

B. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Guy R. Mosely*, Camden, Arkansas; to acquire an additional 3 percent of the voting shares of Montgomery County Bancshares, Inc., Little Rock, Arkansas, and thereby indirectly acquire The Bank of Montgomery County, Mount Ida, Arkansas, and First National Bank of Mena, Mena, Arkansas.

Board of Governors of the Federal Reserve System, March 25, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-6981 Filed 3-30-88; 8:45 am]

BILLING CODE 6210-01-M

Key Centurion Bancshares, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any qustions 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 each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than April 21, 1988.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Key Centurion Bancshares, Inc.*, to acquire Reliable Mortgage Company, Charleston, West Virginia, and thereby engage in making mortgage loans for the Company's account and selling such loans and the servicing functions therefor to other entities pursuant to § 225.25(b)(1)(iii) of the Board's Regulation Y.

2. *MNC Financial, Inc.*, Baltimore, Maryland; to acquire Applewood U.S. Industrial Bank, Golden, Colorado; Aurora U.S. Industrial Bank, Aurora, Colorado; Boulder U.S. Industrial Bank, Boulder, Colorado; Colorado Springs U.S. Industrial Bank, Colorado Springs, Colorado; Fort Collins U.S. Industrial Bank, Fort Collins, Colorado; Littleton U.S. Industrial Bank, Littleton Colorado; Pueblo U.S. Industrial Bank, Pueblo, Colorado; and Thornton U.S. Industrial Bank, Thornton, Colorado; and thereby operate as an industrial bank in the manner authorized by Colorado law. The industrial banks will not both accept demand deposits and make commercial loans, including but not limited to secured and unsecured consumer and business-purpose lending, including second mortgages and servicing loans; acceptance of savings deposits (i.e. passbook, IRA) and issuance of certificates of deposits (i.e. money market, investment); secured and unsecured open-end lending without overdraft credit lines; sales of travelers checks and money orders, engaging in the sale as agent or broker of credit life, credit disability, credit accident and health insurance pursuant to § 225.25 (b)(1), (b)(2), (b)(8) and (b)(12) of the Board's Regulation Y.

B. **Federal Reserve Bank of Chicago** (David S. Epstein Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Wisconsin Corporation*, Milwaukee, Wisconsin; to acquire RE Services, Inc., and thereby engage in making and servicing loans by a mortgage company pursuant to § 225.25(b)(1)(iii) of the Board's Regulation Y and expand the geographic scope to a nationwide basis.

Board of Governors of the Federal Reserve System, March 25, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-6982 Filed 3-30-88; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Gastrointestinal Drugs Advisory Committee; Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the renewal of the Gastrointestinal Drugs Advisory Committee by the Secretary of Health and Human Services. This notice is issued under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)).

DATE: Authority for this committee will expire on March 3, 1990, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

Dated: March 25, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88–7025 Filed 3–30–88; 8:45 am]

BILLING CODE 4160–01–M

Radiopharmaceutical Drugs Advisory Committee; Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the renewal of the Radiopharmaceutical Drugs Advisory Committee by the Secretary of Health and Human Services. This notice is issued under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)).

DATE: Authority for this committee will expire on February 28, 1990, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

Dated: March 25, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88–7026 Filed 3–30–88; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 88D–0080]

Requests for Portions of Intermediate or End Product Resulting From FDA Sample Analysis; Compliance Policy Guide; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of Compliance Policy Guide 7150.18 (the Guide). The Guide advises that a portion of an intermediate or end product resulting from an FDA sample analysis will not be provided to persons outside the agency.

ADDRESS: A copy of Compliance Policy Guide 7150.18 is available for public examination at, and written requests for a single copy of the Guide may be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. (Send two self-addressed adhesive labels to assist the Branch in processing your requests.)

FOR FURTHER INFORMATION CONTACT: Mischelle B. Ledet, Division of Compliance Policy (HFC–230), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1500.

SUPPLEMENTARY INFORMATION: FDA has prepared the Guide to advise that a portion of an intermediate or end product resulting from an FDA sample analysis will not be provided to persons outside the agency. Exception to this policy may be considered when the agency determines that providing a portion of an intermediate or end product from an FDA sample analysis to a person outside the agency would help resolve a serious public health matter or would otherwise benefit the public well-being.

Requests for single copies of the Guide should refer to the docket number found in brackets in the heading of this document and should be submitted to the Dockets Management Branch (address above).

This notice is issued under 21 CFR 10.85.

Dated: March 23, 1988.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 88–7027 Filed 3–30–88; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Termination of Capital Expenditure Review Agreements Under Section 1122 of the Social Security Act

The Department of Health and Human Services announces that, as of October 1, 1987, it has terminated agreements between the Secretary and participating States to carry out provisions of Section 1122 of the Social Security Act (the Act) and will no longer withhold Medicare and Medicaid funds based on past determinations under such agreements. With repeal of Title XV of the Public Health Service (PHS) Act, effective on January 1, 1987, the Department no longer appropriated funds available to support State capital expenditure review activities or for administration of the program.

The section 1122 program was an early cost containment measure established under section 221 of the Social Security Amendments of 1972 (Pub. L. 92–603). The intent of legislation was to deter unwarranted capital expenditures by health care facilities and to support health planning activities in various States by requiring review and approval of proposed capital expenditures based upon plans, standards, and criteria developed by State and local health planning agencies. (See S. Rep. No. 1230, 92d Cong., 2d Sess. 185 (1972).) Section 1122 of the Act created a voluntary capital expenditure review program in which States were able to participate by entering into an agreement with the Secretary under section 1122(b). Agreements with sixteen States and one territory were terminated as of October 1, 1987. Under the section 1122 agreements, the Health Financing Administration (HCFA) has withheld the capital portion of Medicare and Medicaid reimbursements for services furnished by a facility that proceeded with a disapproval capital project. The regulations pertinent to the section 1122 program are codified at 42 CFR Part 100 and 42 CFR 405.1890, 413.161, and 447.35.

The statutory background for the Federal funding of section 1122 reviews is as follows. When section 1122 of the Act was first enacted by section 221 of Pub. L. 92–603, section 1122(c) provided that the costs of State reviews under

section 1122 would be paid by the Secretary from the Medicare Hospital Insurance Trust Fund. In fact, payments were made from the Trust Fund for the initial years of implementation: Fiscal years (FYs) 1974, 1975, and part of 1976. When Title XV of the PHS Act was enacted in 1975, establishing a comprehensive National Health Planning Program, Congress provided that, for States that chose to participate in the section 1122 program, the conduct of section 1122 reviews was to be one of the required functions of the State Health Planning and Development Agencies under their Title XV designation agreements. Accordingly, the State agency grants under section 1525 of the PHS Act would be available to pay the costs of the section 1122 reviews. Based on that Congressional action, the Department ceased making payments for section 1122 reviews from the Medicare Trust Fund.

Under section 607(a) of the Social Security Amendments of 1983 (Pub. L. 98–21), Congress amended section 1122(c) to authorize payments to States for the costs of their reviews from the general fund of the Treasury, rather than from the Medicare Hospital Insurance Trust Fund. Nothing in the legislative history of that amendment suggests that Congress took issue with the Department's position that the costs of section 1122 reviews were payable from a State's section 1525 grant.

On November 14, 1986, the President signed Pub. L. 99–660. Section 701(a) of Pub. L. 99–660 repealed the comprehensive health planning authority, Title XV of the PHS Act, effective January 1, 1987. However, under Chapter VIII of Title I of the Urgent Supplemental Appropriations Act for Fiscal Year 1986 (Pub. L. 99–349), enacted on July 2, 1986, States were permitted to use unobligated funds available for carryover to continue Title XV functions, including section 1122 reviews, through September 30, 1987. The elimination of Title XV health planning authority and the lack of any other funds appropriated to support these reviews effectively leave the section 1122 program without a mechanism of funding. While section 1122(c) may be viewed as an authorization of appropriations for section 1122 activities, apart from Title XV, Congress has not chosen to appropriate funds under that authority. Therefore the Department terminated section 1122 agreements with States effective October 1, 1987.

For several reasons, the repeal of Title XV also makes administration of section 1122 impossible even if a State were to fund its own activities. First is the lack of any continuing entity that could serve as the designated planning agency. Section 1122(b) of the Act, which makes reference to section 1122(d)(1)(B)(ii), provides that the designated planning agency must be either a State agency established pursuant to section 314(a) or section 604(a) of the PHS Act, or a local agency established under section 314(b) of the PHS Act. The 314(a) and 314(b) agencies were the predecessors to the State Health Planning and Development Agency and the Health Systems Agency provided for under Title XV. The 604(a) agency was the agency charged with administration of the former Hill-Burton program. Since the agencies funded under Title XV no longer are designated or funded under that title, if is apparent that there is not longer an entity eligible to be designated for purposes of section 1122 of the Act. Chapter VIII of Title I of Pub. L. 99–349 provided an interim measure to permit the former State Health Planning and Development Agencies to carry out these activities during FY 1987, but this amendment has no further effect.

In addition, it is important to note that, under section 1122, designated planning agencies were required to review proposed capital expenditures to determine their conformity with applicable "standards, criteria, or plans developed pursuant to the Public Health Service Act (or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1966) to meet the need for adequate health care facilities * * *" (Section 1122(b).) The agencies are not authorized to apply any other criteria in their reviews. As a practical matter, this requirement called for the designated planning agency to review proposed expenditures for conformity with the State health plan and the health systems plan developed under Title XV, given that the plans developed long ago under sections 314(a), 314(b), and 604 of the PHS Act and under the Community Mental Health Centers Act have been out of date for many years. Because no plans, criteria, or standards are currently being developed under any of these statutory authorities, there is nothing against which a proposed capital expenditure may properly be judged for conformity.

Finally, in the absence of funding under Title XV of the PHS Act, the only source of funds for payment to States for their costs in carrying out section 1122 of the Act would be a general fund appropriation under the authorization of section 1122(c). Yet no such appropriation exists. Thus, a critical element of the statutory scheme ("The Secretary shall pay * * *" States for their costs of conducting reviews) is lacking. Accordingly, the agreements envisioned by the statute cannot be complied with by the Secretary. Thus, even if a State were willing to continue its participation under section 1122 using solely State funds for its administrative costs, the Department believes that section 1122 no longer contains an adequate basis for the agreements.

For similar reasons, the Department concludes that it would be inappropriate to continue withholding Medicare and Medicaid payments as sanctions for past disapprovals under section 1122 agreements. These reasons are (1) the lack of previously available remedies to modify or challenge a prior disapproval, and (2) the lack of current plans against which to judge a disapproved project that could claim a right to a new review.

The first consideration stems from the regulations that implement section 1122. These regulations provide certain procedural rights to disapproved applicants that would be eliminated by a decision to contiunue withholding. Under 42 CFR 100.109(c)(1)(iii), a facility that has been subjected to withholding may seek reconsideration of that finding at any time following the later of three years from the date of the finding or three years from the date of the last reconsideration by the designated planning agency. Similarly, under subparagraphs (i) and (ii) of that paragraph, if there has been a substantial change in facilities or services in the area or a substantial change in the need for facilities or services in the area, a reconsideration would be available to the applicant. Given the termination of the agreements with all remaining States and the fact that there are no longer any Title XV State agencies, this process will no longer be available to applicants previously disapproved. Since there is no longer any legally appropriate mechanism to review previously disapproved projects, the Department concludes that all prior sanctions should be terminated effective October 1, 1987.

Moreover, as noted above, there are no longer any current plans against which a proposed expenditure may be judged. Thus, even if a means could be found to afford an applicant a new review, there would be no substantive criteria with which to conduct the review.

Accordingly, beginning October 1, 1987, capital costs associated with previously disapproved projects will not be subject to further Medicare and Medicaid withholding. Any capital costs that are related to a period prior to

October 1, 1987 and are associated with a disapproved expenditure may not be allowed.

A State may choose to continue a capital expenditure review program so long as it does not involve Federal participation or Federal funding. For further information on this policy, please contact Emily Haley on (301) 443–5400.

Dated: January 22, 1988.

Robert E. Windom,

Assistant Secretary for Health.

March 8, 1988.

William L. Roper,

Administrator, Health Care Financing Administration.

Otis R. Bowen,

Secretary.

[FR Doc. 88–7095 Filed 3–30–88; 8:45 am]

BILLING CODE 4160–16–M

Health Resources and Services Administration

Project Grants for Renovation or Construction of Non-Acute Care Intermediate and Long Term Care Facilities for Patients With Acquired Immune Deficiency Syndrome (AIDS)

AGENCY: Health Resources and Services Administration, PHS, DHHS.

ACTION: Notice of availability of funds.

SUMMARY: The Bureau of Maternal and Child Health and Resources Development (BMCHRD), Health Resources and Services Administration (HRSA) announces that Fiscal Year 1988 funds are available for project grants for the renovation or construction of non-acute care intermediate and long term care facilities for patients with AIDS. Funds were appropriated for this purpose by Pub. L. 100–202, under the authority of section 1610(b) of the Public Health Service (PHS) Act.

DATE: To receive consideration, applications for section 1610(b) grants for the renovation or construction of facilities for patients with AIDS must be received by the close of business May 31, 1988, by Ms. Dorothy Hodgkin at the address below. Applications shall be considered as meeting the deadline if they are either: (1) Received on or before the deadline date; or (2) postmarked on or before the deadline date, and received in time for submission to the review committee. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be acceptable as proof of timely mailing.

FOR FURTHER INFORMATION CONTACT: Requests for technical or programmatic information should be directed to Ms. Katharine Buckner, Office of Health Facilities, BMCHRD, Room 11A-10, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–0271. Requests for grant application materials should be made in writing to Ms. Dorothy Hodgkin, Grants Management Specialist, BMCHRD, Room 11A–10, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–0271. Applicants for section 1610(b) grants will use Form PHS 5162–1 with revised face sheet HHS Form 424, approved under OMB Control Number 0348–0006.

SUPPLEMENTARY INFORMATION:

Authority

Public Law 100–202 provides funds for grants, under the authority of section 1610(b) of the Public Health Service Act, for the renovation or construction of non-acute care intermediate and long term care facilities for AIDS patients. Section 1610(b) requires that such grants will provide services for medically underserved populations and that the amount of any grant may not exceed 80 percent of the cost of the project for which the grant is made unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the grant may cover up to 100 percent of such costs. (Urban or rural poverty area is defined as a medically underserved area (MUA) designated by the Secretary (42 CFR 51c.102).) For information regarding the current MUA list, contact Mr. Richard C. Bohrer, Director, Division of Primary Care Services, Rm. 7A–55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland, 20857, or telephone (301) 443–2260.

Review Criteria

Grants will be awarded to fund the following types of projects that demonstrate a comprehensive and cost-effective approach to providing non-acute intermediate and/or long term care for patients with AIDS, or HIV infection.

(1) Projects for the expansion, renovation or modernization of existing, traditional medical facilities such as hospitals, nursing homes or hospices. Funds might be used to convert a small number of existing beds (i.e., 5–10) or to expand a facility to include several new beds for AIDS patients;

(2) Projects for the renovation, conversion or modernization of facilities other than traditional medical facilities including existing housing. Applicants must demonstrate that regular medical care, rather than just emergency or episodic care, will be provided in the facility under the general direction of a physician. Although a physician is not required to be at the facility on a full-time basis, space must be available in the facility for a physician or other type of health professional under the general direction of a physician to examine and/or provide treatment to a resident of the facility; and

(3) Projects for the construction, renovation, conversion or expansion of a facility that provides a full spectrum of services necessary during all or most stages of illness of the AIDS patient including residential care, outpatient services, long-term care, skilled nursing care, and hospice care. A physician, or other type of health professional under the general direction of a physician, must be present at the facility on a full-time basis.

Evaluation Criteria

Proposed projects will be evaluated and rated by an objective review committee according to: (1) The documentation of the extent of need and demand for the project; (2) the extent to which the project proposes to deliver to the greatest number of AIDS patients the health care services which best meet the demonstrated need and demand; (3) the appropriateness of the project design and construction; (4) the reasonableness of the cost of the project; (5) the proximity of the proposed facility to a Standard Metropolitan Statistical Area with a known high prevalence of AIDS as reported by the Centers for Disease Control; (6) the documentation of integration of the proposed facility's services with the services provided by the other public and private AIDS service organizations within the community; (7) the degree to which patients in the proposed project area are medically underserved; (8) the experience of the applicant in working with AIDS patients; (9) the ability of the applicant to ensure that staff of the facility will receive appropriate training; and (10) the ability of the applicant to obtain resources other than section 1610(b) grant funds.

Availability of Funds

A total of $6,702,000 is available to be expended by grantees for the renovation and construction of non-acute care intermediate and long-term care facilities for AIDS patients. It is anticipated that awards will be made for a minimum amount of $25,000.

Eligible Applicants

Public and nonprofit private entities are eligible to apply for these grant awards. Applicants must agree in writing to provide:

(1) An assurance that at all times after such application is approved the facility or portion thereof to be constructed, modernized, or renovated will be made available to all persons residing or employed in the area served by the facility, in accordance with 42 CFR Part 124, Subpart G; and

(2) An assurance that there will be made available in the facility or portion thereof to be modernized or renovated, a reasonable volume of services to persons unable to pay for care, in accordance with 42 CFR Part 124, Subpart F. (OMB Clearance Number 0915–0077).

Allowable Costs

A successful applicant under this notice must spend funds it receives according to the approved application and budget; the authorizing legislation; terms and conditions of the grant award; the regulations of the Department and the PHS applicable to grants; the applicable Office of Management and Budget (OMB) circular for non-profit grantees, and Appendix II of the PHS Grants Policy Statement applicable to construction.

Other Award Information

Grants awarded under this notice are subject to the provisions of Executive Order 12372, as implemented under 45 CFR Part 100, which allows States the option of setting up a system for reviewing applications within their States for assistance under certain Federal programs. The application packages to be made available by HRSA will contain a listing of States which have chosen to set up such a review system and will provide a point of contact in the States for the review. Applicants should promptly contact their State Single Point of Contact (SPOC) and follow their instructions prior to the submission of an application. The SPOC has 60 days after the application deadline date to submit its review comments.

The OMB Catalog of Federal Domestic Assistance number for section 1610(b) is 13.887.

Date: February 17, 1988.

David N. Sundwall,

Administrator.

[FR Doc. 88–7028 Filed 3–30–88; 8:45 a.m.]

BILLING CODE 4160–15–M

Designation of Medically Underserved Populations Recommended by the Chief Executive Officer and Local Officials of a State

AGENCY: Health Resources and Services Administration, PHS, HHS.

ACTION: Notice.

SUMMARY: Under the provisions of section 330(b) of the Public Health Service (PHS) Act. 42 U.S.C. 254c(b)(6), as recently amended by Pub. L. 99–280, the Governors of the States of Colorado, Illinois, Massachusetts, Michigan, Oregon and Texas have asked the Secretary of Health and Human Services (HHS) to designate specific populations within their States as medically underserved populations (MUPs). This notice provides an opportunity for local officials and appropriate Community Health Center organizations of the States of Colorado, Illinois, Massachusetts, Michigan, Oregon, and Texas to comment on the recommendations of the Governors of these States to designate as MUPs the populations described in this notice. Also, this notice provides the vehicle for "local officials" to recommend MUP designations for the populations which are specified in this notice.

DATE: Comments should be in writing and should be received by May 2, 1988. If no objections are received within this period, the populations specified in this notice will be designated as MUPs by the Secretary. If valid objections are received, the Secretary will publish responses to them within 75 days from the date of publication of this notice and will grant, modify or deny designation of the population(s) as MUPs, as appropriate.

ADDRESS: Mail comments to Mr. James Purvis, Director, Office of Program and Policy Development, Bureau of Health Care Delivery and Assistance, 5600 Fishers Lane, Room 7–15, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Bohrer, Director, Division of Primary Care Services, Bureau of Health Care Delivery and Assistance, 5600 Fishers Lane, Room 7A–55, Rockville, Maryland 20857, (301) 443–2260.

SUPPLEMENTARY INFORMATION: Section 330 of the PHS Act provides that grants may be made to public and nonprofit private entities to plan, develop and operate Community Health Centers which serve medically underserved populations. The PHS Act and implementing regulations define a medically underserved population as the population of an urban or rural area designated by the Secretary as having a shortage of personal health services. The PHS Act, as recently amended by Pub. L. 90–280, provides at section 330(b)(6) that the Secretary may designate a medically underserved population that does not meet medically underserved population criteria (HHS is promulgating regulations which will specify these criteria), if the chief executive officer and the local officials of the State in which such a population is located recommend the designation of that population, based on unusual local conditions which are a barrier to access to, or availability of, personal health services.

The amendments to section 330 made by Pub. L. 99–280 also provide that the Secretary must notify and consult with the chief executive officer of the State, local officials of the State, and the State organization, if any, which represents a majority of Community Health Centers in such State, before designating or terminating designation of MUPs. HHS is currently developing regulations to specify procedures for providing such notice and opportunity for comment. The Secretary has determined that it would be inappropriate to delay acting on requests of Governors Romer, Thompson, Dukakis, Blanchard, Goldschmidt, and Clements until the regulations are published. Therefore, the Secretary is specifically seeking comments and recommendations from local officials of the particular areas involved as well as from the organization which represents a majority of the Community Health Centers in the State on these proposed designations and other interested or affected parties.

The populations which have been recommended for designation are:

(1) Colorado—The service population of the proposed Denver Metropolitan Provider Network located in the six low-income neighborhoods of West Adams (census tracts 85.08, 92.01, 92.03, 92.04 and 93.11 in Adams County), Westminster (census tracts 96.04, 96.06 and 97.5 in Adams County), Aurora (census tracts 73 in Arapahoe County and 78, 79, and 83.08 in Adams County), Sheridan (census tracts 54.03, 55.51 and 55.52 in Arapahoe County), Englewood (census tracts 58, 59.5, 61 and 63 in Arapahoe County) and Edgewater (census tracts 105.2, 106.4, 107, 110, 114 and 115.5 in Jefferson County).

This population is being recommended for designation as a medically underserved population because of the extremely limited availability of physicians to serve the medically indigent population in the counties surrounding the city of Denver. Only 8.13 full-time equivalent physicians provide primary care services to the 231,600 low-income people in this area. There are no obstetricians or gynecologists in the area who provide services to Medicaid or medically indigent patients. This situation is

further exacerbated by the large proportion of women in childbearing years residing in the service area. Medicaid patients represent only two percent and medically indigent patients comprise only one percent of the total patient volume among primary care physicians located in the Denver metropolitan area. Furthermore, only half of the primary care physicians are accepting new medical assistance patients.

It is expected that the number of people in the Denver area who are experiencing problems of access will be increasing. The Denver area continues to experience severe unemployment.

(2) Illinois—The Asian-American population of five Chicago community areas: Uptown, Lincoln Square, North Park, Albany Park and Edgewater. These five contiguous community areas are located in the northeastern section of Chicago. The total population in this community is 228,277 according to the 1980 Census. This service and contiguous area population represents approximately 62.1% of the city's Asian-American residents, including Chinese, Japanese, Filipino, Koreans, Vietnamese, and all other Asian extractions.

One concern is the need for additional health care services for the young and older population groups. The infant mortality rate is higher than the average for the City of Chicago and for the State of Illinois. A second concern is that Asian Americans experience a great deal of difficulty in accessing the existing health care systems, much like other minority groups in metropolitan areas. The effects of poverty, the existence of poor housing, and the need for adequate and responsive health services are among the major barriers to access to health care. In addition, the Asian community also faces burdens posed by language and cultural barriers.

Many of the recently arrived Asian-Americans suffer immensely from lack of availability of health services tailored to their needs and also from inadequate accessibility to health care. Their limited financial capability poses serious problems to purchasing existing health services. Most Asian immigrants are not familiar with the American health care system. Catchment area restrictions and bureaucratic rules and procedures cause serious accessibility problems. Very often these immigrants lack transportation to available facilities. Even if transportation is not a problem, language is frequently a barrier. These recent immigrants find only English speaking providers who are incapable of communicating to Asian patients.

(3) Massachusetts—The populations of the towns of Wellfleet and Eastham are situated on the 72 mile peninsula of Cape Cod. These towns are located three quarters of the way to the outermost point of the peninsula. There is only one major road to this area of the Cape, and only two bridges connecting the Cape to the mainland.

The nearest hospital to Wellfleet and Eastham is located 32 miles away in Hyannis. There is no readily available transportation to Hyannis.

The AIM Medical Center in Wellfleet is the only facility within a reasonable and accessible distance to the residents of Eastham and Wellfleet. While there is a health clinic located in Provincetown, approximately 18 miles east of Wellfleet and Eastham, this is one of the most geographically isolated spots in the Commonwealth. Provincetown is on the outermost point of the Cape Cod Peninsula. There is no public transportation from Wellfleet and Eastham to Provincetown. It should be noted that the Cape Cod Planning and Economic Development Commission estimates that the population of this part of Cape Cod increases by approximately five times during the summer, thereby greatly exacerbating any transportation problems.

The demographics of the towns' population, combined with the geographical considerations, demonstrate that the designation of a medically underserved population is merited. Based upon the 1980 U.S. Census, the percentage of the populations living at or below 200% of the poverty level is 33.4% in Eastham and 37.7% in Wellfleet. In addition, the towns have an approximately 8% higher population of elderly than the statewide average. According to the 1980 U.S. Census, 20.5% of Wellfleet and Eastham's residents were age 65 or over compared with the statewide average of 12.7%.

The ratio of primary care physicians per 1,000 population for Wellfleet and Eastham is 0.156. This is based upon the Massachusetts 1985 Census which counted 3,870 residents in Eastham and 2,530 residents in Wellfleet for a total of 6,400 permanent year-round residents. There is only one physician with a full time, year round practice in the area at the AIM Medical Clinic.

(4) Michigan—The population of the area served by the Downriver Community Service Clinic in Macomb County which includes New Haven Village, Census Tract 2061, part of Lennox Township, Census Tract 2062 and Ray Township, Census Tract 2060.

This population is recommended for designation as a medically underserved population because it does not have a clinic, hospital, drugstore, dentist, or full-time physician. They have 50% greater incidence of cancer in the service population than in the Detroit Metropolitan area for leukemia and cancer of the mouth, lungs, bladder, prostate, colon, breast and cervix; the infant mortality rate was 19.1/1,000 live births; 17.2% of the population has income at or below 100% of the poverty rate and 13% of the population has a disability that affects their work.

(5) Texas—The population of Nacogdoches County, which is the service population of the East Texas Community Health Services, Incorporated.

The population of the entire county of Nacogdoches is recommended for designation as a medically underserved population because of limitations to the accessibility of health services. The unmet need for primary care visits in the county as a whole is due principally to financial barriers, although two of the four divisions within the county, Cushing-Douglass and Chireno-Martinsville, are already designated as medically underserved areas based on their scores using the index of medical underservice. According to the 1930 United States Census, 73.4 percent of the entire county population has incomes at or below 200 percent of the poverty level and 41.7 percent has incomes below 100 percent of the poverty level. According to the Texas Department of Health, the per capita income in 1984 was $9,978, compared to $12,575 for the State. For seven years the number of unemployed in Nacogdoches has grown, and the unemployment rate currently is over 8 percent. Lack of health insurance coverage is a problem not only for the unemployed but for the working poor found in the agriculture-based economy. Furthermore, according to the most recently available information, Medicaid patients are served by only one general/family practitioner, two pediatricians, and no obstetricians or internists. Nacogdoches County has higher rates than the state of Texas for every major cause of death except homicide, and it is of particular concern to the community that limited or no prenatal services are provided to a significant number of the women who give birth in Nacogdoches County.

(6) Oregon—The population of Hood River County in North Central Oregon—Hood River County is located in North Central Oregon. The area has one principal population center, Hood River, which contained 27% of the county's

16,200 people in 1980. Supplementing permanent residents for ½ of the year is a migrant population engaged in seasonal agricultural activities. The estimate for peak migrant presence in Hood River County is 9,371. If this peak number for migrants is adjusted to an average daily presence, the migrant population brings the total population to 19,714. Estimates of the percent of the population age 65 and over range from 11.6% to 11.8%. The infant mortality rate for the county for the 5-year period 1981–1985 was 12.1%.

Based on a telephone survey of all primary care physicians in Hood River County, 7.4 full time equivalent physicians are available to the population of 19,714. This is a ratio of 1 physician to 2,664 persons—a ratio which is approximately 35 percent of the national average.

The 1980 Census, which reports 1979 economic data, estimates the poverty rate for Hood River County at 9.5%. This estimate is not realistic today as the area has experienced a severe depression beginning in 1980 and lasting through the present time. Data from the Oregon Employment Division showed an unemployment rate of 13.6% for Hood County in 1986.

This economic downturn is the result of heavy reliance on the timber and wood products industry, and the closure of numerous manufacturing and food processing plants. Numerous retail stores have also closed. Many of those who are employed are working fewer hours, are working for reduced wages, and have no fringe benefits such as health insurance.

Dated: March 25, 1988.

David N. Sundwall,

Administrator.

[FR Doc. 88–7029 Filed 3–30–88; 8:45 am]

BILLING CODE 4160–15–M

Indian Health Service

Tribal Management Program For American Indian/Alaska Native Tribal Organizations; Grants Application Announcement

AGENCY: Indian Health Service, HHS.

ACTION: Notice of competitive grant applications for the Tribal Management Program for American Indian/Alaska Native Tribal Organizations.

SUMMARY: The Indian Health Service (IHS) announces that competitive applications are now being accepted for the Tribal Management Program for American Indian/Alaska Native Tribal Organizations established by Section 104(b)(2) of Pub. L. 93–638, the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450h(b)(2)). The regulations governing these grants are codified at 42 CFR Part 36, Subpart H. This program is within the Catalog of Federal Domestic Assistance Number 13.228. There will be only one funding cycle during Fiscal Year 1988.

DATE: An original and two (2) copies of the completed grant application must be submitted to the Grants Management Specialist in the appropriate IHS Area Office by close of business on June 1, 1988. Close of business means 4:00 p.m. local time of the IHS Area Office receiving the application.

Applications shall be considered as meeting the deadline if they are either: (1) Received on or before the deadline or (2) postmarked on or before the deadline and received in time to be reviewed along with all other timely applications. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be accepted as proof of timely mailing.

Applications received after the announced closing date will not be considered for funding.

FOR FURTHER INFORMATION CONTACT: M. Kay Carpentier, Grants Management Office, Grants Management Branch, Division of Grants and Contracts, Indian Health Service, Room 6A–33, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–5204. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This announcement provides information on the general program purpose, programmatic priorities, eligibility requirements, funding availability, and application procedures for the Tribal Management Program for American Indian/Alaska Native Tribal Organizations for Fiscal Year 1988.

A. General Program Purpose

To increase the management capacity of an American Indian/Alaska Native tribal organization to enter into an agreement under the provisions of Pub. L. 93–638 to assume operational control of all or part of an existing IHS direct operated health program.

B. Programmatic Priorities

The IHS has established the following general priorities that will be observed in the award of tribal management grants. For activities designed to improve the capacity of a tribal organization to enter into an assumption agreement, preference in funding will be accorded in the following priority order:

1. Tribal organizations with the stated intention of entering into assumption agreements for the first time.

2. Tribal organizations with the stated intention of increasing their operation of health programs by negotiating additional assumption agreements with the IHS.

3. Tribal organizations that need assistance in improving existing management systems under their operational control.

C. Eligibility Requirements

Any federally recognized Indian tribe or tribal organization as defined in section 4(b) and (c) of Pub. L. 93–638, the Indian Self-Determination and Education Assistance Act of 1975, and in 42 CFR Part 36, Subpart H, 36.102, is eligible to apply for a tribal management grant from the IHS.

D. Fund Availability

Approximately $1.8 million is available in fiscal year 1988 during this cycle for award of tribal management grants under section 104(b)(2). the average funding level for tribal management projects in FY 1987 was approximately $25,000. The approximate amount of funding available from each of the eleven IHS Area Offices and the Office of Health Program Development is:

Aberdeen Area Office:	$200,000
Alaska Native Health Service:	280,000
Albuquerque Area Office:	100,000
Billings Area Office:	120,000
California Area Office:	220,000
Bemidji Area Office:	150,000
Nashville Area Office:	150,000
Navajo Area Office:	120,000
Oklahoma City Area Office:	240,000
Phoenix Area Office:	120,000
Portland Area Office:	170,000
Office of Health Program Development	20,000

E. Type of Program Activities Considered for Support

Grants will be awarded for projects in five general categories. Tribal management grants are awarded for the purposes of feasibility studies, planning, the development of tribal health management structures, training and staff development, and evaluation studies. Additionally, the IHS Area Offices may establish area-specific categories for accomplishing area wide program objectives. These area-specific categories will fall within the five general categories above.

The area-specific categories will be published and made available with the application packages distributed by the IHS Area Offices.

F. Application Process

1. An *IHS Tribal Management Grant Application Kit*, including Standard Form 424 Page 1 (Rev. 4–84) and General Information and Instructions for Grant Application Form PHS 5161–1 (Rev. 3–86), may be obtained from the Grants Management Specialist in the IHS Area Office that serves the applicant. The address and telephone number of the IHS Area Offices are:

Aberdeen Area Indian Health Service, Federal Building, 115 4th Avenue SE., Aberdeen, South Dakota 57401, (605) 225–0250, ext. 567
Alaska Area Native Indian Health Service, P.O. Box 107741, Anchorage, Alaska 99501–7741, (907) 257–1139
Albuquerque Area Indian Health Service, 505 Marquette NW., Suite 1502, Albuquerque, New Mexico 87102, (505) 474–2151
Bemidji Area Indian Health Service, 203 Federal Building, Bemidji, Minnesota 56601, (218) 751–7701 ext. 230
Billings Area Indian Health Service, P.O. Box 2143, Billings, Montana 59103, (406) 657–6123
California Area Indian Health Service, 2999 Fulton Avenue, Sacramento, California 95821, (916) 978–4202
Nashville Area Indian Health Service, 1101 Kermit Drive, Suite 810, Nashville, Tennessee 37217, (615) 736–5104
Navajo Area Indian Health Service, P.O. Box G, Window Rock, Arizona 86515, (602) 871–5865
Oklahoma City Area Indian Health Service, 215 Dean A. McGee Street N.W., Oklahoma City, Oklahoma 73102, (405) 231–5227
Phoenix Area Indian Health Service, 3738 N. 16th Street, Suite A, Phoenix, Arizona 85016, (602) 241–2075
Portland Area Indian Health Service, 1220 S.W. Third Avenue, Room 476, Portland, Oregon 97204, (503) 221–2018
Office of Health Research and Development, 7900 S. J. Stock Road, Tucson, Arizona 85746, (602) 629–6600

2. The application must be signed and submitted by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award.

3. Each application will be reviewed by the Contract Proposal Liaison Officer (CPLO) for completeness, accuracy, and eligibility. All acceptable applications will be subject to a competitive review and evaluated in accordance with established objective review procedures. The Tribal Management Program is not subject to E.O. 12372.

4. All applicants will be notified regarding the status of their applications (approved, approved unfunded, disapproved or deferred) by Augst 26, 1988. Projects will begin September 1, 1988.

G. Criteria for Review and Evaluation

1. Applications will be evaluated in accordance with 42 CFR Part 36, Subpart H, § 36.106, Grant Award and Evaluation, as addressed under the following headings:

—Need: § 36.106(a)(5),
—Method: § 36.106(a)(2) and (a)(4),
—Qualification of Key Personnel: § 36.106(a)(1),
—Adequacy of Management Controls: § 36.106(a)(1) and (a)(3), and
—Internal Evaluation: § 36.106(a)(1) and (a)(2).

These headings are defined and clarified in the Program Guidelines, Part V, which are contained in the IHS Tribal Management Grant Application Kit.

2. The project period for any proposal will not exceed one year.

Date: March 8, 1988.

Everett R. Rhoades,

Assistant Surgeon General, Director, Indian Health Service.

[FR Doc. 88–7030 Filed 3–30–88; 8:45 am]

BILLING CODE 4160–16–M

National Institutes of Health

National Cancer Institute; Developmental Therapeutics Contracts Review Committee Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Developmental Therapeutics Contracts Review Committee, National Cancer Institute, National Institutes of Health, May 5–6, 1988, Forest Hills Conference Room, Linden Hill Hotel & Racquet Club, 5400 Pooks Hill Road, Bethesda, Maryland 20814.

This meeting will be open to the public on May 5 from 8 a.m. to 8:30 a.m., to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on May 5 from 8:30 a.m. to recess; and on May 6 from 8 a.m. to adjournment for the review, discussion, and evaluation of individual contract proposals. The proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A–06, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892 (301–496–5708), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Kendall G. Powers, Executive Secretary, Developmental Therapeutics Contracts Review Committee, National Cancer Institute, Westwood Building, Room 805, National Institutes of Health, Bethesda, Maryland 20892 (301–496–7575) will provide substantive program information, upon request.

Dated: March 18, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–7083 Filed 3–30–88; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; National High Blood Pressure Education Program Coordinating Committee; Meeting

Notice is hereby given of the meeting of the National High Blood Pressure Education Program Coordinating Committee, sponsored by the National Heart, Lung, and Blood Institute, on April 15, 1988, from 8:30 a.m. to 1:00 p.m., at the Mary Lasker Center, Building 60, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The meeting is open to the public. The Coordinating Committee is meeting to define the priorities, activities, and needs of the participating groups in the National High Blood Pressure Education Program. A final review will take place of the report of the Joint National Committee on Detection, Evaluation, and Treatment of High Blood Pressure. Attendance by the public will be limited to space available.

For the detailed program information, agenda, list of participants, and meeting summary, contact: Dr. Edward J. Roccella, Coordinator, National High Blood Pressure Education Program, Office of Prevention, Education, and Control, National Heart, Lung, and Blood Institute, National Institutes of Health, Building 31, Room 4A05, Bethesda, Maryland 20892, (301) 496–0554.

Dated: March 21, 1988.

James B. Wyngaarden,

Director, NIH.

[FR Doc. 88–7084 Filed 3–30–88; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Diabetes and Digestive and Kidney Diseases; Meeting of the Board of Scientific Counselors

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), April 14, 15, and 16, 1988, National Institutes of Health, Building 2, Room 102, Bethesda, Maryland 20892. This meeting will be open to the public on April 14 from 8 p.m. to 10 p.m., April 15 from 8 a.m. to 12 noon and again from 2 p.m. to 4:30 p.m., and April 16 from 9 a.m. to 10:30 a.m. The open portion of the meeting will be devoted to scientific presentations by various laboratories of the NIDDK Intramural Research Program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on April 14 from 7:30 p.m. to 8 p.m., April 15 from 12 noon to 2 p.m. and again from 4:30 p.m. to recess, and April 16 from 10:30 a.m. to adjournment for the review, discussion and evaluation of individual intramural programs and projects conducted by the NIDDK, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of the meeting and rosters of the members will be provided by the Committee Management Office, National Institute of Diabetes and Digestive and Kidney Diseases, Building 31, Room 9A19, Bethesda, Maryland 20892. Further information concerning the meeting may be obtained by contacting the office of Dr. Jesse Roth, Executive Secretary, Board of Scientific Counselors, National Institutes of Health, Building 10, Room 9N–222, Bethesda, Maryland 20892, (301) 496–4128.

Dated: March 18, 1988.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 88–7085 Filed 3–30–88; 8:45 am]

BILLING CODE 4140–01–M

National Library of Medicine; Meeting of the Board of Scientific Counselors

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Library of Medicine, on May 2 and 3, 1988, in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting will be open to the public from 8:30 a.m. to 4 p.m. on May 2 and from 8:30 a.m. to approximately 12 noon on May 3 for the review of research and development programs of the Lister Hill National Center for Biomedical Communications. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), Title 5, U.S.C., and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on May 2, from approximately 4 to 5 p.m. for the consideration of personnel qualifications and performance of individual investigators and similar items, the disclosure of which would constitute an unwarranted invasion of personal privacy.

The Executive Secretary, Dr. Daniel R. Masys, Director, Lister Hill National Center for Biomedical Communications, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone (301) 496–4441, will furnish summaries of the meeting, rosters of committee members, and substantive program information.

Date: March 18, 1988.

Betty J. Beveridge,

NIH Committee Management Officer, NIH.

[FR Doc. 88–7086 Filed 3–30–88; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the following study sections for April through May 1988, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301–496–7534 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the executive secretary to confirm the exact date, time and location. All times are A.M. unless otherwise specified.

Study section	April–May 1988 meetings	Time	Location
Behavioral and Neurosciences-1, Ms. Janet Cuca, Rm. A13, Tel. 301–496–5352.	May 9–10	8:30	Holiday Inn, Chevy Chase, MD.
Behavioral and Neurosciences-2, Ms. Janet Cuca, Rm. A13, Tel. 301–496–5352.	May 3	8:30	Do.
Biomedical Sciences-3, Mr. Gene Headley, Rm. A25, Tel. 301–496–7287	Apr. 25–26	8:30	Westpark Hotel, Rosslyn, VA.
Biomedical Sciences-4, Dr. Charles Baker, Rm. A10, Tel. 301–496–7150	Apr. 26–28	8:30	Holiday Inn, Georgetown, DC.
Biomedical Sciences-5, Dr. Bert Wilson, Rm. A25, Tel. 301–496–7600	Apr. 15	8:30	Room 8, Bldg. 31C, Bethesda, MD.
Biomedical Sciences-6, Dr. Syed M. Amir, Rm. A10, Tel. 301–496–3117	May 4–6	8:30	Crowne Plaza, Rockville, MD.
Clinical Sciences-1, Dr. Lynwood Jones, Jr., Rm. A19, Tel. 301–496–7510	Apr. 28–29	8:30	Do.
Clinical Sciences-2, Dr. Bernice Lipkin, Rm. A19, Tel. 301–496–7477	Apr. 18–19	8:30	Room 10, Bldg. 31C, Bethesda, MD.
Clinical Sciences-3, Dr. Nicholas Mazarella, Rm. A27, Tel. 301–496–1069	Apr. 29	8:30	Crowne Plaza, Rockville, MD.
Clinical Sciences-4, Dr. Bernice Lipkin, Rm. A19, Tel. 301–496–7477	May 12–13	8:30	Do.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.393–13.396, 13.837–13.844, 13.846–13.878, 13.892, 13.893, National Institutes of Health, HHS)

Dated: March 18, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–7087 Filed 3–30–88; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Resources; Meeting of the National Advisory Research Resources Council

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Research Resources Council (NARRC), Division of Research Resources (DRR), on June 9–10, 1988, at the National Institutes of Health, Conference Room 10, Building 31C, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on June 9 from 9 a.m. until recess and from 8:30 a.m. until approximately 11 a.m. on June 10 during which time there will be discussions on administrative matters such as previous meeting minutes; the Report of the Director, DRR; and review of budget and legislative updates. There will be a presentation on the Animal Resources Program led by Dr. William Gay, Director, which will include several guest speakers. Attendance by the public will be limited to space available.

In accordence with provisions set forth in sections 552(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 10 from approximately 11 a.m. until adjournment for the review, discussion and evaluation of individual grant applications.

The applications and the discussions could reveal confidential trade secrets commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, DRR, Building 31, Room 5B10, National Institutes of Health, Bethesda, Maryland 20892, 301/496–5545, will provide a summary of the meeting and a roster of the Council members upon request. Dr. James F. O'Donnell, Deputy Director, DRR, Building 31, Room 5B03, National Institutes of Health, Bethesda, Maryland 20892, 301/496–6023, will furnish substantive program information upon request, and will receive any comments pertaining to this announcement.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, Laboratory Animal Sciences and Primate Research; 13.333, Clinical Research; 13.337, Biomedical Research Support; 13.371, Biomedical Research Technology; 13.375, Minority Biomedical Research Support; 13.389 Research Centers in Minority Institutions, National Institutes of Health)

Dated: March 18, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–7088 Filed 3–30–88; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Secretary's Council on Health Promotion and Disease Prevention; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following meeting of the Secretary's Council on Health Promotion and Disease Prevention, scheduled to meet April 21, 1988.

Name: Secretary's Council on Health Promotion and Disease Prevention.

Date and Time: April 21, 1988, 9:00 AM to 4:00 PM.

Place: Room 800, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC.

Open April 21, 9:00 AM to Noon, and 1:30 PM to 4:00 PM. Closed from Noon to 1:30 PM.

Purpose: The Secretary's Council on Health Promotion and Disease Prevention is charged to provide advice to the Secretary and to the Assistant Secretary for Health on national goals and strategies to achieve those goals for improving the health of the Nation through disease prevention and health promotion.

Agenda: This meeting will be the first meeting of the Secretary's Council. The Council will receive a briefing on progress to date relating to the 1990 Health Objectives for the Nation, development of a new set of objectives for the year 2000, plans for implementation of preventive clinical service recommendations resulting from the work of the U.S. Preventive Services Task Force and the Public Health Service, and progress on preparation of the Surgeon General's Report on Nutrition and Health. The Council will consider a plan of operation for its subsequent work.

During its closed session at the lunch hour, the Council is scheduled to meet privately with the Secretary.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Mr. James Harrell, Office of Disease Prevention and Health Promotion, Public Health Service, Department of Health and Human Services, Washington, DC 20201. Telephone (202) 245–7611.

Agenda items are subject to change as priorities dictate.

Date: March 24, 1988.

J.M. McGinnis,

Deputy Assistant Secretary for Health (Disease Prevention and Health Promotion).

[FR Doc. 88–7034 Filed 3–30–88; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

National Environmental Policy Act; Revised Implementing Procedures

AGENCY: Department of the Interior.

ACTION: Notice of final revised procedures implementing the National Environmental Policy Act (NEPA) for the Bureau of Indian Affairs (BIA).

SUMMARY: This notice announces a final revision of Appendix 4 to the Department's NEPA procedures (516 DM 6, Appendix 4) which were published in the **Federal Register** on January 23, 1981 (46 FR 7490).

DATE EFFECTIVE: March 24, 1988.

FOR FURTHER INFORMATION CONTACT: Bruce Blanchard, Director, Office of Environmental Project Review, Office of the Secretary, Department of the Interior, Washington, DC 20240; Telephone (202) 343–3891, FTS 343–3891. For the Bureau of Indian Affairs, contact George Farris, Telephone (202) 343–6574, FTS 343–6574.

SUPPLEMENTARY INFORMATION: This revised Appendix 4 to the Departmental Manual (516 DM 6) provides more specific NEPA compliance guidance to the BIA. In particular, it updates information about BIA organizational responsibilities for NEPA compliance, updates guidance to applicants, identifies, without change, actions normally requiring the preparation of an EIS, and updates, revises, and adds to those actions categorically excluded from the NEPA process. The additions reflect continued BIA experience with the NEPA process and are primarily in the forestry and land conveyance areas. The Appendix 4 must be used in conjunction with the Departmental procedures and the Council on Environmental Quality regulations (40 CFR Parts 1500–1508). In addition, the BIA has prepared a Handbook (30 BIAM, Supplement 1) to provide technical guidance on how to apply

these procedures to its principal programs at the Area and Agency levels.

A Notice of a proposed revision was published in the **Federal Register** on November 4, 1987 (52 FR 42349). No comments were received on the proposal. Two minor changes to Section 4.4F, Rights-of-Way, were made as a result of internal BIA review. Any comments concerning these changes are welcome.

Outline

Part 516 National Environmental Policy Act
Chapter 6 Managing the NEPA Process
Appendix 4 Bureau of Indian Affairs
4.1 NEPA Responsibility
4.2 Guidance to Applicants and Tribal Governments
4.3 Major Actions Normally Requiring an EIS
4.4 Categorical Exclusions

Date: March 24, 1988.

Martin L. Smith,

Deputy Assistant Secretary—Policy, Budget and Administration.

516 DM 6, Appendix 4

4.1 NEPA Responsibility

A. *Assistant Secretary—Indian Affairs* is responsible for the NEPA compliance of Bureau of Indian Affairs (BIA) activities and programs.

B. *Deputy to the Assistant Secretary—Indian Affairs (Trust and Economic Development)* is responsible for oversight of the BIA program for achieving compliance with NEPA. The Deputy determines the adequacy of all EIS's which come before the Assistant Secretary before making decisions for implementing proposed actions.

C. *The Environmental Services Staff,* (Washington), in the Office of Trust and Economic Development is the focal point for overall NEPA guidance within BIA and is responsible for advising and assisting Area Offices, Agency Superintendents, and other field support personnel in their environmental activities, providing training and acting as the Central Office's liaison with Indian tribal governments on environmental and NEPA compliance matters. Information about BIA NEPA documents or the NEPA process can be obtained by contacting the Environmental Services Staff.

D. *Other Central Office Directors and Division Chiefs* are responsible for ensuring that the programs and activities within their jurisdiction comply with NEPA.

E. *Area Directors and Project Officers* are responsible for conducting all activities under their jurisdiction in compliance with NEPA and providing advice and assistance to Agency Superintendents and consulting with the Indian tribes on environmental matters related to NEPA; and assigning sufficient trained staff to ensure that these responsibilities are carried out. An Environmental Coordinator is located in the agriculture resources division or, in its absence, the realty division.

F. *Agency Superintendents and Field Unit Supervisors* are responsible, as directed and delegated by the Area Directors, for implementation and enforcement of the BIA environmental policy at the Agency or field unit level, including field inspection and preparation of environmental documents. These documents should be reviewed to the extent practicable for procedural adequacy by the Environmental Coordinator of the Area Office before release to the public.

4.2 Guidance to Applicants and Tribal Governments

A. *Relationship with Applicants and Tribal Governments.*

1. *Guidance to Applicants.*

a. An "applicant" is any entity which proposes to undertake any activity which will at some point require BIA action. These may include tribal governments, private entities, state and local governments or other Federal agencies. BIA compliance with NEPA is a Federal responsibility. Compliance is triggered when there will be a BIA decision required to implement an action.

b. Applicants should contact the BIA official at the appropriate level for assistance. This will be the Agency Superintendent, Area Director or Deputy to the Assistant Secretary—Indian Affairs (Trust and Economic Development), in the Central Office.

c. If the applicant's proposed action will affect responsibilities of more than one tribal government, one government agency, one BIA Agency, or where the action may be of State-wide or regional significance, the applicant may contact the respective Area Director(s). The Area Director, in his sole discretion, may assign the environmental responsibilities to one Agency Superintendent to act as the lead office for the proposal. From that point, the Applicant will deal with the designated lead office.

d. Since much of the applicant's planning may take the place outside the BIA planning system, it is the applicant's responsibility to prepare a milestone chart for BIA use at the earliest possible stage in order to coordinate the efforts of both parties. Early communication with the BIA responsible office will expedite determination of such matters as the scope, depth and sources of data for an environmental document.

2. *Guidance to Tribal Government.*

a. Tribal governments may be applicants, and/or be affected by a proposed action of BIA or another Federal agency. Tribal governments affected by a proposed action shall be consulted during the preparation of environmental documents and, at their option, may cooperate in the review or preparation of such documents. Notwithstanding the above, the BIA retains sole responsibility and discretion in all NEPA compliance matters.

b. Proposed Tribal actions that do not require BIA or other Federal approval or funding are *not* subject to the NEPA process.

B. *Prepared Program Guidance.*

BIA has implemented regulations for environmental guidance for surface mining in 25 CFR Part 216 (Surface Exploration, Mining and Reclamation of Lands.) Environmental guidance for Forestry activities is found in 25 CFR 163.27 and 53 BIAM Supplement 2 and Supplement 3.

C. *Other Guidance.*

Programs under 25 CFR for which BIA has not yet issued regulations or directives for environmental information for applicants are listed below. These programs may or may not require environmental documents and could involve submission of applicant information to determine NEPA applicability. Applicants for these types of programs should contact the nearest affected BIA office for information and assistance:

1. Loans to Indians from the Revolving Loan Fund (25 CFR Part 101).

2. Loan guaranty, insurance, and interest subsidy (25 CFR Part 103).

3. Leasing and permitting (Lands) (25 CFR Part 162).

4. Sale of lumber and other forest products produced by Indian enterprises from the forests on Indian reservation (25 CFR Part 164).

5. Sale of forest products, Red Lake Indian Reservation, Minn. (25 CFR Part 165).

6. General grazing regulations (25 CFR Part 166).

7. Navajo grazing regulations (25 CFR Part 167).

8. Grazing regulations for the Hopi partitioned lands area (25 CFR Part 168).

9. Rights-of-way over Indian lands (25 CFR Part 169).

10. Roads of the Bureau of Indian Affairs (25 CFR Part 170).

11. Concessions, permits and leases on lands withdrawn or acquired in

connection with Indian irrigation projects (25 CFR Part 173).

12. Colorado River Irrigation Project, Arizona (25 CFR Part 175).

13. Flathead Indian Irrigation Project, Montana (25 CFR Part 176).

14. Leasing of tribal lands for mining (25 CFR Part 211).

15. Leasing of allotted lands for mining (25 CFR Part 212).

16. Leasing of restricted lands of members of Five Civilized Tribes, Oklahoma, for mining (25 CFR Part 213).

17. Leasing of Osage Reservation lands, Oklahoma, for mining, except oil and gas (25 CFR Part 214).

18. Lead and zinc mining operations and leases, Quapaw Agency (25 CFR Part 215).

19. Leasing of Osage Reservation lands for oil and gas mining (25 CFR Part 226).

20. Leasing of certain lands in Wind River Indian reservation, Wyoming, for oil and gas mining (25 CFR Part 227).

21. Off-reservation treaty fishing (25 CFR Part 249).

22. Preservation of antiquities (25 CFR Part 261).

23. Contracts under Indian Self-Determination Act (25 CFR Part 272).

24. Grants under Indian Self-Determination Act (25 CFR Part 272).

25. School construction or services for tribally operated perviously private schools (25 CFR Part 274).

26. School construction contracts for public schools (25 CFR Part 277).

27. Indian Business Development Program (25 CFR Part 286).

4.3 Major Actions Normally Requiring an EIS

A. The following BIA actions normally require the preparation of an Environmental Impact Statement (EIS):

1. Proposed mining contracts (for other than oil and gas), or the combination of a number of smaller contracts comprising a mining unit for:

a. New mines of 640 acres or more, other than surface coal mines.

b. New surface coal mines of 1,280 acres or more, or having an annual full production level of 5 million tons or more.

2. Proposed water development project which would, for example, inundate more than 1,000 acres, or store more than 30,000 acre-feet, or irrigate more than 5,000 acres of undeveloped land.

B. If, for any of these actions, it is proposed not to prepare an EIS, an Environmental Assessment (EA) will be prepared and handled in accordance with § 1501.4(e)(2).

4.4 Categorical Exclusions

In addition to the actions listed in the Department's categorical exclusions in Appendix 1 of 516 DM 2, many of which the BIA also performs, the following BIA actions are hereby designated as categorical exclusions unless the action qualifies as an exception under Appendix 2 of 516 DM 2:

A. *Operation, maintenance, and replacement of existing facilities.* Examples are normal renovation of buildings, road repairs and limited rehabilitation of irrigation structures.

B. *Transfer for Existing Federal Facilities to Other Entities.* Transfer of existing operation and maintenance activities of Federal facilities to tribal groups, water user organizations, or other entities where the anticipated operation and maintenance activities are agreed to in a contract, follow BIA policy, and no change in operations or maintenance is anticipated.

C. *Human resources programs having primarily socio-economic effects.* Examples are social services, education services, employment assistance, tribal operations, law enforcement and credit and financing activities.

D. *Administrative actions and other activities relating to trust resources.* Examples are: Management of trust funds, issuance of such documents as certificates of competency, allotments and fee patents; renewal of agricultural and other leases when environmental impacts are addressed in an earlier environmental document.

E. *Self-Determination Act Grants and Contracts.*

1. Self-Determination Act Grants.

2. Self-Determination Act contracts for BIA programs which are listed as categorical exclusions, or for programs in which environmental impacts are adequately addressed in an earlier environmental document.

F. *Rights-of-Way.*

1. Rights-of-way inside another right-of-way, or amendments to rights-of-way where minor deviations from or additions to the original right-or-way are involved and where there is an existing environmental document covering the same or similar impacts in the right-of-way area.

2. Service line agreements to an individual residence, building or well from an existing facility where installation will involve no clearance of vegetation from the right-of-way other than for placement of poles or lines.

3. Renewals, assignments and conversions of existing rights-of-way where would be essentially no change in use and continuation would not lead to environmental degradation.

G. *Minerals.*

1. Approval of permits for geologic mapping, inventory, reconnaissance and surface collecting.

2. Approval of unitization agreements, pooling or communitization agreements.

3. Approval of mineral lease adjustments and transfers, including assignments and subleases.

H. *Forestry.*

1. Approval of free-use cutting, without permit, to Indian owners for on-reservation personal use of forest products, not to exceed 2,500 feet board measure.

2. Approval and issuance of free-use cutting permits for forest products not to exceed $2,500 in value.

3. Approval and issuance of paid timber cutting permits for products valued at less than $10,000 when in compliance with policies and guidelines established by a current management plan covered by an environmental document.

4. Approval of annual logging plans when in compliance with policies and guidlines established by a current management plan covered by an environmental document.

5. Approval of *Normal Fire Year Plans* and/or *Mobilization Plans* detailing emergency fire suppression activities.

6. Approval of emergency forest and range rehabilitation plans when limited to environmental stabilization on less than 10,000 acres.

7. Approval of timber stand improevement projects of less than 200 acres when in compliance with policies and guidlines established by a current management plan covered by an environmental document.

8. Approval of timber management access skid trail and logging road construction when consistent with policies and guidelines established by a current management plan covered by an environmental document.

9. Approval of prescribed burning plans of less than 200 acres when in compliance with policies and guidlines established by a current management plan covered by an environmental document.

10. Approval of tree planting projects and associated protection and site preparation activities on less than 200 acres when consistent with policies and guidelines established by a current management plan covered by an environmental document.

I. *Land Conveyance.*

1. Land transfers from Federal or State Agencies or other DOI Bureaus to the BIA as land to be held in trust for the Indian tribe(s) involving no

development, physical alteration, or change in land use.

2. Purchase, sale, abandonment or exchange of tracts of land, mineral rights or other interests in land in which no change in land use or operation is planned.

3. Lands acquired pursuant to 25 U.S.C. 465, 35 U.S.C. 501, and 25 U.S.C. 2202 where no development, physical alteration, or change of land use after acquisition is known or planned.

J. *Other.*

1. Data gathering activities such as inventories, soil and range surveys, timber cruising, geological, archeological, paleontological and cadastral surveys.

2. Establishment of non-disturbance environmental quality monitoring programs and field monitoring stations including testing services.

3. Actions where BIA has concurrence or co-approval with another Bureau and the action is categorically excluded for that Bureau.

4. Approval of an Application for Permit to Drill for a new water source or observation well.

5. Approval of conversion of an abandoned oil well to a water well if water facilities are established only near the well site.

[FR Doc. 88-6983 Filed 3-30-88; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[OR-130-08-4410-08; GP8-097]

Availability of Draft Planning Analysis for Iceberg Point and Point Colville, Lopez Island, WA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of Draft Planning Analysis for Iceberg Point and Point Colville and Invitation to Comment.

SUMMARY: Oregon and Washington; Spokane District; Draft Planning Analysis for Iceberg Point and Point Colville.

Notice is hereby given of the availability of the Draft Planning Analysis and Environmental Assessment for Iceberg Point and Point Colville, located on Lopez Island in San Juan County, Washington. The public comment period will close June 4, 1988, (60 days).

SUPPLEMENTARY INFORMATION: This Planning Analysis addresses the management of the following lands under the jurisdiction of the BLM on Lopez Island, San Juan County, Washington: Section 23, Lot 4, Section 24, Lots 6 and 7, T. 34 N., R. 2 W., containing 55.59 acres on Iceberg Point, and Section 21, Lot 6, T. 34 N., R. 1 W., containing 60.0 acres on Point Colville. The issues addressed in this Planning Analysis are Legal Access and Recreation Management. The Preferred Alternative would designate two parcels as Areas of Critical Environmental Concern (ACEC). Under this alternative the emphasis would be on preserving the natural values. Opportunities for primitive recreation would be provided to the extent they are compatible with the preservation of natural values, particularly scientific and educational values. Where a choice must be made between preservation of the natural values and allowing visitor use, preservation of the natural resources will be the primary consideration.

Two other alternatives are considered in addition to the Preferred Alternative. They are a Research Alternative (Alternative No. 2), and No Action Alternative (Alternative No. 3). Under the Research Alternative the ACEC designation would also be made, but the primary management emphasis would be for research and educational purposes and opportunities for primitive dispersed recreation would not be provided. Any uses of Iceberg Point and Point Colville under this alternative must focus on research and educational purposes. Under the No Action Alternative no formal protective designations would be made and the existing situation would continue. If the Preferred Alternative were adopted the following resource use limitations would occur:

—Motorized vehicles would not be allowed on either area except as follows: Emergency vehicles; Motorized vehicles along the existing road crossing the Point Colville parcel; Coast Guard vehicular access to maintain navigational aids on Iceberg Point.
—All fires and overnight camping would be prohibited.
—Fuelwood cutting and commercial timber sales would be prohibited.
—No rights-of-way would be permitted.
—Permits would be required for groups of ten or more persons.

FOR FURTHER INFORMATION CONTACT:

Joseph K. Buesing, District Manager, Spokane District Office, East 4217 Main Avenue, Spokane, Washington 99202,

Or

James F. Fisher, Area Manager, Wenatchee Resource Area Office, 1133 North Western Avenue, Wenatchee, Washington 98801.

Copies of the Draft are available for review at the following offices and libraries:

U.S. Bureau of Land Management, Spokane District Office, East 4217 Main Avenue, Spokane, Washington 99202;
U.S. Bureau of Land Management, Wenatchee Resource Area Office, 1133 North Western Avenue, Wenatchee, Washington 98801;
Washington State Library, State Library Building, Olympia, Washington 98504;
San Juan County Court House Annex Library, 135 Rhone Street, Friday Harbor, Washington 98250.

A limited supply of copies of the Planning Analysis are available upon request to the Spokane District Manager and the Wenatchee Resource Area Manager.

DATES: Written comments concerning issues pertinent to this Planning Analysis will be accepted for 60 days.

A public meeting has been scheduled at the Islander Lopez Marina Resort on April 26, 1988 from 5:00 p.m. to 9:00 p.m.

David E. Sinclair,

Acting District Manager.

[FR Doc. 88-6991 Filed 3-30-88; 8:45 am]

BILLING CODE 4310-33-M

Intent To Prepare an Environmental Assessment (EA) or Environmental Impact Statement (EIS) and To Hold Scoping Meetings; Vernal District, UT

AGENCY: Vernal District, Utah, Bureau of Land Management (BLM), Interior.

ACTION: Notice of intent to prepare an EA or EIS and notice of scoping meetings.

SUMMARY: The BLM intends to prepare an EA or EIS for a proposal by Questar Pipeline Co. (QPC) to construct and operate approximately 77 miles of buried 20-inch natural gas pipeline. The purpose of the pipeline is to provide a transmission pipeline link between QPC's existing northern and southern transmission systems. The pipeline would begin in Section 16, T. 13 N., R. 24 E., SLB & M in Daggett County, Utah, and would terminate in Section 16, T. 9 S., R. 22 E., SLB & M in Uintah County, Utah. Construction is scheduled to begin in the Spring of 1989 and would take about four months to complete.

The EA or EIS will analyze the environmental impact of constructing and operating the pipeline along the proposed route, and along at least three alternative routes identified by the applicant. All routes would cross Federal lands and would require

issuance of Federal rights-of-way. It has not yet been determined if the granting of proposed rights-of-way would constitute a major Federal action requiring the preparation of an EIS pursuant to the National Environmental Policy Act of 1969 (NEPA) and the Council on Environmental Quality (CEQ) regulations. The BLM will be the lead agency and the Federal Energy Regulatory Commission and the Forest Service will be cooperating agencies in preparation of the document.

The Vernal District of BLM will hold two public meetings to receive input for the preparation of the document, and to identify issues, concerns, and additional alternatives. The first meeting will be held on April 27, 1988 at 7:00 p.m. at the Vernal, Utah BLM Office, 170 South 500 East, Vernal. The second meeting will be held on April 28, 1988 at 7:00 p.m. at Flaming Gorge Dam, Utah at the Visitors Center. Scoping packets are available. Scoping comments will be received until May 14, 1988. They should be addressed to: Mr. Ralph Brown, Project Manager, Vernal District BLM, 170 South 500 East, Vernal, Utah.

For more information or to obtain a scoping packet, contact Mr. Ralph Brown at the above address or call (801) 789–1362 between the hours of 7:45 a.m. to 4:30 p.m.

Date: March 24, 1988.

Craig M. Hansen,

Assistant District Manager for Minerals.

[FR Doc. 88–7046 Filed 3–30–88; 8:45 am]

BILLING CODE 4310–DQ–M

[OR–943–08–4220–10; GP–08–100; OR–41565 and OR–41566 (WASH)]

Transfer of Jurisdiction of Lands; Oregon and Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice identifies and describes the Bureau of Land Management public lands that were transferred to the jurisdiction of the Forest Service by Public Law 99–663 which established the Columbia River Gorge National Scenic Area.

EFFECTIVE DATE: November 17, 1986.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503–231–6905.

SUPPLEMENTARY INFORMATION: 1. The Act of November 17, 1986 (Pub. L. 99–663), 100 Stat. 4274; 16 U.S.C. 544, established the Columbia River Gorge National Scenic Area. Section 14(f) of said Act transferred all public lands administered by the Bureau of Land Management within the established boundary of the national scenic area to the jurisdiction of the Forest Service, U.S. Department of Agriculture, effective on November 17, 1986, the date of the Act. Said lands are identified and described as follows:

Willamette Meridian, Oregon

Surface and Mineral Estates

T. 1 N., R. 5 E.,
Sec. 13, SW¼NE¼, SE¼NW¼, NE¼SW¼, and NW¼SE¼; except for approximately 3 acres conveyed to Multnomah County for road purposes by deed recorded in P.S. Book 1798 at Page 22, Records of Deeds for the County of Multnomah.
T. 2 N., R. 12 E.,
Sec. 3, lot 3;
Sec. 11, lot 2 and NE¼SE¼.
T. 2 N., R. 13 E.,
Sec. 32, lot 5.
T. 2 N., R. 15 E.,
Sec. 16, S½ of lot 2, S½ of lot 3, and S½ of lot 4.

Surface Estate Only

T. 1 N., R. 4 E.,
Sec. 29, that portion of the NW¼NE¼ as described in deed recorded as Document No. 18364 in Book 2061 at Page 554, Records of Deeds for the County of Multnomah;
Sec. 30, lot 4 and those portions of lots 3, 5, and 6 as described in deed recorded as Document No. 18364, supra.
T. 1 N., R. 5 E.,
Sec. 13, S½SW¼NW¼, W½SW¼, and those portions of the NW¼NE¼ and NE¼NW¼ as described in deed recorded as Document No. 18364, supra.;
Sec. 14, SE¼ and those portions of lot 1 and SE¼ and NE¼ as described in deed recorded as Document No. 18364, supra.;
Sec. 21, those portions of lots 1, 2, and SE¼NE¼ as described in deed recorded as Document No. 18364, supra.;
Sec. 22
Sec. SW¼SW¼;
Sec. 27, N½NW¼NW¼ and those portions of the E½NW¼, SW¼NW¼, and NW¼SW¼ as described in deed recorded as Document No. 18364, supra.;
Sec. 28, that portion of the N½NE¼, as described in deed recorded as Document No. 18364, supra.;
Sec. 29, those portions of the NE¼SE¼ and SW¼SE¼ as described in deed recorded as Document No. 18364, supra.;
Sec. 32, SW¼NE¼ and that portion of the NW¼NE¼ as described in deed recorded as Document No. 18364, supra.

Mineral Estate Only

T. 2 N., R. 9 E.,
Sec. 1, lots 3, 4 and SE¼NW¼.

Willamette Meridian, Washington

Surface and Mineral Estates

T. 1 N., R. 5 E.,
Sec. 12, unsurveyed island known as Skamania Island.
T. 1 N., R. 6 E.,
Sec. 7, unsurveyed island known as Skamania Island.
T. 2 N., R. 7 E.,
Sec. 10., NW¼NW¼ and NW¼SW¼.
T. 3 N., R. 11 E.,
Sec. 25, NE¼SW¼.
T. 3 N., R. 12 E.,
Sec. 30, lot 4.
T. 2 N., R. 13 E.,
Sec. 4, SE¼NE¼
T. 2 N., R. 14 E.,
Sec. 13, lot 4, NE¼NW¼, and those portions of lot 3 and SE¼NE¼ lying outside the U.S. Army Corps of Engineers withdrawal made by Public Land Order No. 1260 of December 1, 1955;
Sec. 14, lots 6 and 7;
Sec. 17, that portion of lot 2 lying outside the U.S. Army Corps of Engineers withdrawal made by Public Land Order No. 1260 of December 1, 1955;
Sec. 18, the fractional SW¼SW¼;
Sec. 19, that portion of the NW¼NW¼ lying outside the U.S. Army Corps of Engineers withdrawal made by Public Land Order No. 1260 of December 1, 1955.
T. 2 N., R. 15 E.,
Sec. 8, NW¼;
Sec. 9, W½NE¼, NW¼, and W½SW¼;
Sec. 14, NW¼SE¼ and those portions of lots 6, 7, 8, and 9 lying outside the U.S. Army Corps of Engineers withdrawal made by Public Land Order No. 1260 of December 1, 1955;
Sec. 15, NW¼NE¼.

Mineral Estate Only

T. 2 N., R. 6 E.,
Sec. 12, SE¼;
Sec. 13, NE¼NE¼, NE¼NW¼, and SE¼ SE¼;
Sec. 24, NE¼SW¼.
T. 2 N., R. 7 E.,
Sec. 7, lot 4.
T. 2 N., R. 13 E.,
Sec. 8, lots 2, 3, NE¼, N½NW¼, SE¼ NW¼, and E½SE¼.
T. 2 N., R. 14 E.,
Sec. 4, S½NW¼, N½SW¼, and E½SE¼;
Sec. 10, NW¼NW¼;
Sec. 30, SW¼SE¼.
T. 2 N., R. 15 E.,
Sec. 10, SW¼.

Geothermal, Oil, and Gas Estate Only

T. 3 N., R. 11 E.,
Sec. 10, SW¼.

The areas described aggregate approximately 1,197.11 acres in Hood River, Multnomah, and Wasco Counties, Oregon, and approximately.

2. Sections 8(a), 9(a), 9(e), and 14(f) of Pub. L. 99–663 made the above described lands within the State of Oregon part of the Mt. Hood National Forest and the above described lands within the State

of Washington part of the Gifford Pinchot National Forest.

B. Lavelle Black,

Chief, Branch of Lands and Minerals Operations.

Dated: March 22, 1988.

[FR Doc. 88-6992 Filed 3-30-88; 8:45 am]

BILLING CODE 4310-33-M

[AZ-010-08-4410-02; 1784-010]

Arizona Strip Advisory Council; Meeting and Field Tour

AGENCY: Bureau of Land Management, Arizona Strip District, Interior.

ACTION: Notice of meeting and field tour.

SUMMARY: The Arizona Strip District Advisory Council will discuss cultural resources and general resource management planning, and tour special management areas.

DATES: Meeting Tuesday, April 26, 1988 at 1 p.m. in Four Seasons Inn, 747 East St. George Blvd., St. George, Utah. Field tour Wednesday, April 27, 1988 leaving the Four Seasons Inn at 7:30 a.m. and returning to St. George around 5 p.m.

FOR FURTHER INFORMATION CONTACT: G. William Lamb, District Manager, 390 North 3050 East, St. George, Utah 84770 (Phone 801/673-3545).

SUPPLEMENTARY INFORMATION: The meeting and tour are open to the public. Interested people must provide their own transportation and food for the tour. Council will consider both oral and written statements at 5 p.m. Tuesday or anytime during Wednesday's tour. Arrangements to attend or comment should be made at least 5 days in advance.

G. William Lamb,

Arizona Strip District Manager.

March 18, 1988.

[FR Doc. 88-6993 Filed 3-30-88; 8:45 am]

BILLING CODE 4310-32-M

[AZ-010-08-4322-02; 1784-010]

Arizona Strip District Field Tour

AGENCY: Bureau of Land Management, Arizona Strip District, Interior.

ACTION: Notice of field tour.

SUMMARY: The Arizona Strip District Grazing Advisory Board will tour the southern portion of the Shivwits Resource Area to view and discuss grazing management allotments.

DATE: Thursday, April 28, 1988 leaving from the district office at 8 a.m. and returning about 5 p.m.

FOR FURTHER INFORMATION CONTACT: G. William Lamb, District Manager, 390 North 3050 East, St. George, Utah 84770 (Phone 801/673-3545).

SUPPLEMENTARY INFORMATION: Interested publics may accompany the tour; however, they must provide their own transportation and food. The Board will consider written and oral statements anytime during the tour. Arrangements to comment or attend should be made at least 5 days in advance.

G. William Lamb,

Arizona Strip District.

March 18, 1988.

[FR Doc. 88-6994 Filed 3-30-88; 8:45 am]

BILLING CODE 4310-32-M

[ID-040-4321-04-2410]

Salmon District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Salmon District of the Bureau of Land Management (BLM) announces a forthcoming meeting of the Salmon District Advisory Council.

DATE: The meeting will be held Thursday, May 19, 1988, at 9:00 a.m.

ADDRESS: The meeting will be held at the Salmon District Office, Bureau of Land Management, Conference Room, South Highway 93, Salmon, Idaho 83467.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with Pub. L. 92-463 and 94-579. The main purpose for the meeting is to review and discuss the District Agricultural Unauthorized Use Abatement Plan, the Herd Management Area Plan for the Challis Wild Horse Herd, the District Pilot Riparian Plan, and the State land exchanges in the District. Current Salmon District issues will also be discussed.

The meeting is open to the public. Interested persons may make oral statements to the Council between 10:00 a.m. and 10:30 a.m., or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the Salmon District Office by May 16, 1988.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting. Notification of oral statements and requests for summary minutes should be sent to: Jerry W. Goodman, District Manager, Bureau of Land Management, Salmon District Office P.O. Box 430, Salmon, Idaho 83467.

Dated: March 25, 1988.

Alan R. Wood,

Acting District Manager.

[FR Doc. 88-7055 Filed 3-30-88; 8:45 am]

BILLING CODE 4310-GG-M

Proposed Reinstatement of a Terminated Oil and Gas Lease; Alaska

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease AA-48979-V has been received covering the following lands:

Fairbanks Meridian, Alaska

T. 20 S., R. 8 E.,
Sec. SW¼SW¼.
(40 acres)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from February 1, 1988, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA-48979-V as set out is section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, affective February 1, 1988, subject to the terms and conditions cited above.

Dated: March 23, 1988.

Sue A. Faught,

Acting Chief, Branch of Mineral Adjudication.

[FR Doc. 88-6995 Filed 3-30-88; 8:45 am]

BILLING CODE 4310-JA-M

[MT-920-07-4111-13; MTM 75628]

Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Pub. L. 97-451, a petition for reinstatement of oil and gas lease MTM 75628, Carbon County, Montana, was timely filed and accompained by the required rental accruing from the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔% respectively. Payment of a $500 administration fee has been made.

Having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective as of the date of termination, subject to the original terms and conditions of the lease, the increased rental and royalty rates cites above, and reimbursement for cost of publication of this Notice.

Dated: March 16, 1988.

June A. Bailey,

Chief, Leasing Unit.

[FR Doc. 88-6996 Filed 3-30-88; 8:45 am]

BILLING CODE 4310-DN-M

[ES-30-08-4212-11; ES-00157-013; ES-31803]

Realty Action; Recreation and Public Purposes Classification; Land Classification for Recreation and Public Purposes, Chippewa County, MN

SUMMARY: The following described parcel has been classified as suitable for disposal to the State of Minnesota by conveyance pursuant to the provisions of the Recreation and Public Purposes Act of 1926 (44 Stat. 741) as amended (U.S.C. 869):

Fifth Principal Meridian, Minnesota

ES-31803 Chippewa County: Tl.115N., R.39W., Sec. 13, Lot 6, total of 8.17 acres (Scout Island).

The purpose of the conveyance is the island's management as a portion of the Minnesota Wild and Scenic River Area.

Any patent issued under this notice shall be subject to the provisions in 43 CFR 2741.8. In the event of noncompliance with the terms of the patent, title to the land shall revert to the United States. Classification of this land segregates it from all appropriation except as to applications under the mineral leasing laws and the Recreation and Public Purposes Act.

This segregation will terminate upon issuance of a patent, or eighteen (18) months from the date of this notice, or upon publication of a Notice of Termination.

Comments: For a period of 45 days from the date of first publication of this notice, interested parties may submit comments to: District Manager, Milwaukee District Office, Bureau of Land Management, P.O. Box 631, Milwaukee, Wisconsin 53201-0631.

For Further Information: Detailed information concerning this application is available for review at the Milwaukee District Office, 310 West Wisconsin Avenue, Suite 225, Milwaukee, Wisconsin 53203; or by calling Larry Johnson at (414) 291-4413.

Bert Rodgers,

District Manager.

[FR Doc. 88-6997 Filed 3-30-88; 8:45 am]

BILLING CODE 4310-GT-M

[UT-060-08-4212-14, U-59971]

Realty Action; Sale of Public Land, Carbon County, UT

AGENCY: Moab, Bureau of Land Management, Interior.

ACTION: Amended notice of Realty Action U-59971, sale of public land in Carbon County, Utah.

SUMMARY: A Notice of Realty Action was published in the **Federal Register** on July 23, 1987 (Volume 52, No. 141, pages 27733-27734) offering the following described parcels of public land for direct sale to Wellington City, Utah. The subject sale was under the authority of section 203 of the Federal Land Policy and Management Act of 1976 (FLPMA) (90 Stat. 2750; 43 U.S.C. 1713):

Salt Lake Meridian, Utah

T. 15 S., R. 10 E.,
Sec. 12, S½SE¼,
Sec. 13, N½,
Sec. 14, NE¼NE¼.

The described land contains 440 acres.

The notice segregated the land from all forms of appropriation under the public land laws, including the mining laws. The segregation will expire on April 18, 1988. This notice extends the segregation until October 1, 1988 or until issuance of patent, whichever comes first. This extension is necessary in order to protect the subject lands until the purchaser, Wellington City, Utah receives the necessary grant funds to complete the sales transaction.

Additional Information: Additional information concerning the land and the terms and conditions of the sale may be obtained from mark Mackiewicz, Area Realty Specialist, Price River Resource Area, 900 North 700 East, Price, Utah 84501, (801) 637-4584 or from Brad Groesbeck, District Realty Specialist, Moab District Office, P.O. Box 970, Moab, Utah 84532, (801) 259-6111.

Date: March 25, 1988.

Gene Nodine

District Manager.

[FR Doc. 88-7047 Filed 3-30-88; 8:45 am]

BILLING CODE 4310-DQ-M

[WY-930-08-5420-10-ZKAC; W-104357]

Recordable Disclaimer of Interest in Land; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of application for a Recordable Disclaimer of Interest in Land.

SUMMARY: Eugene A. Linn, Wilson, Wyoming, has filed an application for a Recordable Disclaimer of Interest by the United States.

DATE: Comments or objections to this application should be submitted on or before June 29, 1988.

ADDRESS: Send comments to Chief, Branch of Land Resources, Wyoming State Office, Bureau of Land Management, 2515 Warren Avenue, Cheyenne, Wyoming 82001.

FOR FURTHER INFORMATION CONTACT: Jon Johnson, Wyoming State Office, (307) 772-2074.

SUPPLEMENTARY INFORMATION: Pursuant to section 315 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1745, and Title 43 CFR, Subpart 1864, Eugene A. Linn, has filed an application for a Recordable Disclaimer of Interest in the following described land:

Sixth Principal Meridian

T. 41 N., R. 117 W.,
That land riparian to lots 2 and 3 of section 13 lying between the meander lines shown on the Plat of Survey approved April 2, 1903, and the subsequent Plat of Survey accepted August 21, 1987, and the thread of the Snake River.

The Bureau of Land Management has determined that the United States has no claim to nor interest in the above described land and issuance of the proposed disclaimer would help remove a cloud on the title to that land.

For a period of 90 days from date of publication of this notice, interested persons may submit written comments on or objections to the proposed disclaimer. If no objections are submitted, the disclaimer will be issued to Eugene Albert Linn, Connie Elizabeth Linn, Bennie Lars Linn, Peter V. Linn, and Ellen Wells Linn, their successors or assigns, after the 90 day comment period ends.

John A. Naylor,

Chief, Branch of Land Resources.

March 21, 1988.

[FR Doc. 88-6990 Filed 3-30-88; 8:45 am]

BILLING CODE 4310-22-M

[AZ-050-4333-12]

Arizona; Closing of Area to Camping

AGENCY: Bureau of Land Management, Interior.

ACTION: Close an area to camping.

SUMMARY: The area north of Senator Wash Road and south of McKinley Road west of the All American Canal is closed to camping. The exception to this closure will be the area known as Cozy Cove in the Imperial Dam Long-Term Visitor Area. The closed area is located in T. 15 S., R. 24 E., secs. 8 and 17, San Bernardino Meridian, California.

EFFECTIVE DATE: April 4, 1988.

FOR FURTHER INFORMATION: Sue E. Richardson, Area, Manager, Yuma Resource Area, 3150 Winsor Avenue, Yuma, Arizona 85365, 602–726–6300.

SUPPLEMENTARY INFORMATION: Authority for this action is contained in 43 CFR 8364.1. This area is being closed to protect wildlife and wildlife habitat. The area being closed is immediately adjacent to priority wildlife habitat as described in the Yuma District Resource Management Plan. The resourse is being adversely impacted because of heavy camping. Maps of the area are available at the Yuma BLM office.

Sondra L. Berger,

Acting District Manager.

Date: March 23, 1988.

[FR Doc. 88–6999 Filed 3–30–88; 8:45 am]

BILLING CODE 4310-32-M

[CA-027-08-4050-90]

Susanville, CA District, Plan Amendment For Alturas Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to initiate a plan amendment for the Alturas Resource Area Resource Management Plan.

SUMMARY: The Alturas Resource Management Plan (RMP) amendment would propose changes to the planning decisions relating to the Ash Valley Research Natural Area.

The amendment would change the designation of the natural area to the Ash Valley Research Natural Area/Area of Critical Environmental Concern (RNA/ACEC). This reflects the Bureau's present policy on special area designations. The Ash Valley Research Natural Area was designated to provide protection for six sensitive plant species.

The amendment would remove 51 acres of timber producing lands from the timber base lands thus excluding these lands from timber harvesting or management practices.

The amendment recommends withdrawal of the Ash Valley Research Natural Area from location under the U.S. Mining Laws. The area would remain open to leasing under mineral leasing laws.

These amendments will exclude activities that could be detrimental to the resources in the natural area and help insure that the area remains in its natural state.

The Ash Valley Research Natural Area consists of 1,100 acres of public lands in Lassen County midway between Adin and Madeline, California.

FOR FURTHER INFORMATION CONTACT: No public meetings are planned at this time. The public is invited to comment on the plan amendment by contacting Richard J. Drehobl, BLM Alturas Resource Area Manager, 120 S. Main Street, Alturas, CA 96101 or at (916) 233–4666. More detailed information concerning the Ash Valley Research Natural Area and the Alturas Resource Area Management Plan can also be obtained by contacting the Alturas Resource Area Office.

Richard J. Drehobl,

Area Manager.

[FR Doc. 88–7000 Filed 3–30–88; 8:45 am]

BILLING CODE 4310-40-M

[CO-942-08-4520-12]

Colorado; Filing of Plats of Survey

March 23, 1988.

The official filing of the following described plats is hereby stayed, pending final resolutions of objections to the survey. The plats will not be officially filed until further notice. They were originally to be officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective 10:00 a.m., March 25, 1988.

The plat representing the dependent resurvey of a portion of the east, west, and north boundaries and the subdivisional lines, and the survey of the subdivision of certain sections and an island designated as Tract 37, T. 7 S., R. 95 W., Sixth Principal Meridian, Colorado, Group No. 719, was accepted September 21, 1987.

The plat representing the dependent resurvey of portions of the Twelfth Guide Meridian West (west boundary) and the subdivisional lines, and the survey of islands designated as Tracts 37, 38, 39, 40, and 41, T. 8 S., R. 96 W., Sixth Principal Meridian, Colorado, Group No. 719, was accepted September 21, 1987.

These surveys were executed to meet certain administrative needs of this Bureau.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado, 80215.

Jack A. Eaves,

Chief, Cadastral Surveyor for Colorado.

[FR Doc. 88–7001 Filed 3–30–88; 8:45 am]

BILLING CODE 4310-JB-M

[CO-942-08-4520-12]

Colorado; Filing of Plats of Survey

March 21, 1988.

The plats of survey of the following described lands will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m., March 21, 1988.

The plat representing the dependent resurvey of a portion of the First Standard Parallel South (south boundary), portions of the west boundary and the subdivisional lines and the survey of the subdivision of sections 30 and 31, T. 5 S., R. 74 W., Sixth Principal Meridian, Colorado, Group No. 772, was accepted March 7, 1988.

The plat representing the dependent resurvey of a portion of the First Standard Parallel South (south boundary) and the subdivisional lines and the survey of the subdivision of sections 25 and 36, T. 5 S., R. 75 W., Sixth Principal Meridian, Colorado, Group No. 772, was accepted March 7, 1988.

The plat representing the dependent resurvey of a portion of the subdivisional lines and the survey of the subdivision of sections 23 and 24, T. 4 N., R. 72 W., Sixth Principal Meridian, Colorado, Group No. 838, was accepted March 10, 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, 80215.

Jack A. Eaves,

Chief, Cadastral Surveyor for Colorado.

[FR Doc. 88–7002 Filed 3–30–88; 8:45 am]

BILLING CODE 4310-JB-M

[CA-940-08-4220-10; CA-19403]

Proposed Withdrawal; California

March 25, 1988.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 1,880.10 acres of public land in San Benito County to protect the unique soils and botanic community of the San Benito Mountain Natural Area. This notice closes the land for up to 2 years from location and entry under the United States mining laws. The land will remain open to mineral leasing.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, BLM California State Office, 2800 Cottage Way, Sacramento, California 95825, 916-978-4815.

SUPPLEMENTARY INFORMATION: On March 15, 1988, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public land from location and entry under the the United States mining laws, subject to valid existing rights:

Mount Diablo Meridian

T. 18 S., R. 12 E.,
Sec. 4, NW¼SW¼, S½SW¼, and SW¼SE¼;
Sec. 5, lots 5 and 12;
Sec. 9, lots 1 to 13, inclusive, lots 18 to 20, inclusive, and NE¼;
Sec. 10, lots 4 to 7, inclusive, S½SW¼ NW¼NW¼, SW¼NW¼, S½NE¼SE¼ NW¼, NW¼NW¼SE¼NW¼, S½ NW¼SE¼NW¼, S½SE¼NW¼, S½ SW¼, and SE¼SE¼;
Sec. 14, lots 2 and 3, NW¼, N½SW¼, SW¼SW½, N½SE¼SW¼, and NW¼SE¼;
Sec. 15, E½E½ and NW¼NE¼.

The area described contains 1,880.10 acres in San Benito County.

The purpose of the proposed withdrawal is to protect the unique soils and botanic community of the San Benito Mountain Natural Area for scientific and research purposes. Until an application is filed, no further action will be taken on this proposal.

For a period of two years from the date of publication of this notice in the Federal Register, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which may be permitted during this segregative period are land use permits for off-road vehicle events on the existing trail, and special recreational use permits for the gathering of various plants and shrubs.

Nancy J. Alex,

Chief, Lands Section, Branch of Adjudication and Records.

[FR Doc. 88-7053 Filed 3-30-88; 8:45 am]

BILLING CODE 4310-40-M

Minerals Management Service

Final Environmental Impact Statement for Gorda Ridge, California; and Oregon Outer Continental Shelf Minerals and Rights-of-Way Management, General

AGENCY: Minerals Management Service, Interior.

ACTION: Termination of final environmental impact statement on development of Gorda Ridge Polymetallic Sulfides.

SUMMARY: This Notice announces the cancellation of the preparation of a final Environmental Impact Statement (EIS) pertaining to a proposal to offer mineral leases for the development of polymetallic sulfide resources on the Gorda Ridge offshore southern Oregon and northern California.

FOR FURTHER INFORMATION CONTACT: Gerald D. Rhodes, Chief, Branch of Rules, Orders, and Standards, Minerals Management Service, 12203 Sunrise Valley Drive, Reston, Virginia, 22091, Telephone: (703) 648-7816, FTS 959-7816.

SUPPLEMENTARY INFORMATION: In January 1984, MMS made available a draft EIS concerning a polymetallic sulfide lease sale on the Gorda Ridge offshore southern Oregon and northern California. The lease sale was planned to be held later in 1984. After the release of the draft EIS, work on the final EIS and the sale were deferred pending the completion of studies by a joint Federal/State Task Force on the engineering, economic, and environmental effects of developing the polymetallic sulfide deposites at Gorda Ridge. The studies coordinated by the Task Force were reviewed at a symposium in May 1987. Information and comments obtained during this symposium indicated that industry is not prepared to participate in a lease sale for polymetallic sulfides at this time. In view of this lack of interest, MMS has suspended plans for a lease offer for the polymetallic sulfide deposits on the Gorda Ridge. Therefore, no further efforts will be undertaken to prepare a final EIS. If interests are renewed in the leasing of polymetallic sulfide deposits on the Gorda Ridge, a new draft EIS will be prepared in preparation for a lease offering.

(Sec. 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C))

Dated: March 18, 1988.

William D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 88-7003 Filed 3-30-88; 8:45 am]

BILLING CODE 4310-MR-M

Receipt of Development Operations Coordination Document From Chevron U.S.A. Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G-3197, Block 120, Main Pass Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from existing onshore bases located at Venice an Harvey, Louisiana.

DATE: The subject DOCD was deemed submitted on March 23, 1988.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 120 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: March 23, 1988.

J. Rogers Rearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88-7004 Filed 3-30-88; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Clean Air Act; Laskin et al.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on March 17, 1988 a proposed consent decree in *United States* v. *Laskin, et al.*, Civil Action No. C84-2035Y was lodged with the United States District Court for the Northern District of Ohio. The proposed consent decree concerns the recovery of response costs incurred by the United State Environmental Protection Agency at the Laskin/Poplar Oil site in Jefferson, Ohio. The proposed consent decree requires the settling defendants to pay $1.47 million for costs incurred at the site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Laskin, et al.*, D.J. Ref. 90-11-3-38. Copies of comments should also be forwarded to Steven D. Bell, Assistant U.S. Attorney, Northern District of Ohio, 1404 East Ninth Street, Cleveland, Ohio 44114.

The proposed consent decree may be examined at the office of the United States Attorney, Northern District of Ohio, 1404 East Ninth Street, Cleveland, Ohio, and at the Region 5 Office of the Environmental Protection Agency, Office of Regional Counsel, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.90 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88-7005 Filed 3-30-88; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endownment for the Arts.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATE: Comments on this information collection must be submitted by May 2, 1988.

ADDRESSES: Send comments to Miss Elaina Norden, Office of Management and Budget, New Executive Office Building, 726 Jackson Place NW., Room 3002, Washington, DC 20503 (202-395-7316). In addition, copies of such comments may be sent to Mr. Murray Welsh, National Endowment for the Arts, Administrative Services Division, Room 203, 1100 Pennsylvania Avenue NW., Washington, DC 20506; (202-682-5401).

FOR FURTHER INFORMATION CONTACT: Mr. Murray Welsh, National Endowment for the Arts, Administrative Services Division, Room 203, 1100 Pennsylvania Avenue NW., Washington, DC 20506 (202-682-5401) from whom copies of the documents are available.

SUPPLEMENTARY INFORMATION: The Endowment requests a review of the revision of a currently approved collection. This entry is issued by the Endowment and contains the following information:

(1) The title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

Title: Arts in Education Application Guidelines FY 1989.

Frequency of Collection: Annually.

Respondents: State or local governments; Non-profit institutions.

Use: Guideline instructions and applications elicit relevant information from non-profit organizations, state arts and local arts agencies and regional organizations that apply for funding under specific program categories. This information is necessary for the accurate, fair and thorough consideration of competing proposals in the peer review process.

Estimated Number of Respondents: 326.

Estimated Hours for Respondents to Provide Information: 5,597.

Murray R. Welsh,

Director, Administrative Services Division, National Endowment for the Arts.

[FR Doc. 88-7096 Filed 3-30-88; 8:45 am]

BILLING CODE 7537-01-M

Expansion Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Performing Arts/Dance & Music Section) to the National Council on the Arts will be held on April 19-April 21, 1988 from 9:00 a.m.-5:30 p.m. in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on April 19, 1988, from 9:00 a.m.-11:30 a.m. and on April 21, 1988, from 2:00 p.m.-5:30 p.m. for a general program overview and guidelines discussion.

The remaining sessions of this meeting on March 19, 1988 from 11:30 a.m.-5:30 p.m., and on April 20, 1988 from 9:00 a.m.-5:30 p.m., and on April 21, 1988 from 9:00 a.m.-1:00 p.m. are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(b) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100

Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Yvonne Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

March 24, 1988.

[FR Doc. 88–7006 Filed 3–30–88; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit issued under the Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice of permits issued.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

SUPPLEMENTARY INFORMATION: On February 12, 1988, the National Science Foundation published notice in the **Federal Register** of permit applications received. A permit was issued to the following individual on March 21, 1988: Bob Reiss.

Charles E. Myers,

Permit Office, Division of Polar Programs.

[FR Doc. 88–7007 Filed 3–30–88; 8:45 am]

BILLING CODE 7555–01–M

Committee Management; Establishment

The Assistant Director for Biological, Behavioral, and Social Sciences has determined that the establishment of the Advisory Panel for Genetic Biology is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF) and other applicable law. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Name of Committee: Advisory Panel for Genetic Biology.

Purpose: Primarily, to advise on the merit of proposals for research and research-related purposes submitted to the Foundation for financial support. Additionally, the Panel provides oversight, general advice, and policy guidance to the Genetic Biology Program.

M. Rebecca Winkler,

Committee Management Officer.

March 25, 1988.

[FR Doc. 88–7035 Filed 3–30–88; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Advanced Pressurized Water Reactors

The **Federal Register** published Friday, March 18, 1988 (53 FR 9014) contained notice of a meeting of the ACRS Subcommittee on Advanced Pressurized Water Reactors scheduled for April 5, 1988 has been *rescheduled for Wednesday, April 6, 1988, 8:30 a.m., Room 1046, 1717 H Street NW., Washington, DC.*

To the extent practical the meeting will be open to public attendance. However, portions of the meeting may be closed to discuss Westinghouse proprietary information. All other items pertaining to this meeting remain the same as previously published.

Date: March 28, 1988.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 88–7100 Filed 3–30–88; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Thermal Hydraulic Phenomena; Meeting

The ACRS Subcommittee on Thermal Hydraulic Phenomena will hold a meeting on April 19–21, 1988, at the Best Western Stardust Hotel, 700 Lindsay Blvd., Idaho Falls, ID.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, April 19, 1988—8:30 a.m. until the conclusion of business

The Subcommittee will review the draft Models and Correlations Document for the RELAP–5/MOD 2 thermal hydraulic code.

Wednesday, April 20, 1988—8:30 a.m. until 1:00 p.m.

The Subcommittee will review the final version of the proposed revision to the ECCS Rule.

Wednesday, April 20, 1988—1:00 p.m. until the conclusion of business and Thursday, April 21, 1988—8:30 a.m. until the conclusion of business.

The Subcommittee will discuss a proposed report on thermal hydraulic research for consideration by the ACRS.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date: March 28, 1988.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 88–7101 Filed 3–30–88; 8:45 am]

BILLING CODE 7590–01–M

Relocation of NRC Offices

Effective March 28, 1988, the NRC's Office of the Executive Director for Operations has been relocated at the agency's new office building located at One White Flint North, 11555 Rockville

Pike, Rockville, Maryland. In addition, the following portions of the Office of Governmental and Public Affairs (GPA) have been relocated at One White Flint North: The Director of GPA and the Public Affairs staff. The agency's mailing address remains unchanged—U.S. Nuclear Regulatory Commission, Washington, DC 20555. The new telephone number for the Public Affairs staff is 301–492–0240. Specific telephone numbers for the remaining relocated NRC personnel may be obtained from the NRC Operator on 301–492–7000. A new NRC Telephone Directory (NUREG/BR–0046) is expected to be issued in the near future.

Dated at Bethesda, Maryland, this 28th day of March 1988.

For the Nuclear Regulatory Commission.

David L. Meyer,

Cheif, Rules and Procedures Branch, Division of Rules and Records, Office of Administration and Resources Management.

[FR Doc. 88–7074 Filed 3–30–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–424]

Georgia Power Co. et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–68, issued to the Georgia Power Company, et al. (the licensee), for operation of the Vogtle Electric Generating Plant, Unit 1 located in Burke County, Georgia.

The amendment would add a footnote to Technical Specification 3.7.6, "Control Room Emergency Filtration System," in order to allow pre-operational testing of the Vogtle Electric Generating Plant (VEGP) Unit 2 hearing, ventilation, and air conditioning (HVAC) system. The footnote will state the following:

> The verification activity specified by Paragraph 4.7.6.e.3 is waived with respect to the Unit 1 Control Room/Unit 2 Control Room differential pressure during periods of operation of the Unit 2 Emergency HVAC System while conducting pre-operational testing of that system. The waiver is contingent upon the capability to shut down the applicable Unit 2 HVAC systems within 4.5 minutes after receipt of a Unit 1 Control Room Isolation signal.

VEGP Unit 1 is protected from VEGP Unit 2 construction and testing activities by physical barriers and administrative controls. In particular, the VEGP Unit 1 and Unit 2 control room areas are separated by a temporary wall and the HVAC systems are separated by a series of dampers, removed duct sections, and caps on open ducts.

The licensee plans to remove the temporary wall separating the VEGP Unit 1 and VEGP Unit 2 control room areas during the first VEGP Unit 1 refueling outage, in order to minimize the negative impact of the wall removal on the operation of VEGP Unit 1. This schedule requires that pre-operational testing of the VEGP Unit 2 HVAC systems begin prior to the VEGP Unit 1 refueling outage. The VEGP Unit 2 testing activities will result in occasional positive pressures in the VEGP Unit 2 control room, which could negate the positive pressure requirement for the VEGP Unit 1 control room and is the reason that the proposed amendment is necessary. These testing activities are scheduled to begin immediately and end just in time to remove the temporary wall during the VEGP Unit 1 refueling outage scheduled to begin in September 1988.

The licensee initially believed that the required pre-operational testing of the VEGP Unit 2 emergency HVAC systems could be performed during full power operation of VEGP Unit 1 without the need for a Technical Specification amendment for VEGP Unit 1. This belief was based on the temporary nature of the VEGP Unit 2 pressurization testing and the continued compliance with the VEGP Unit 1 Technical Specification Bases through compensatory operator action. The Nuclear Regulatory Commission (NRC) staff informed the licensee on March 17, 1988 of their position that a Technical Specification amendment was necessary. Therefore, approval of the proposed amendment on an exigent basis is necessary to avoid a potential extension of the planned VEGP Unit 1 refueling outage or a separate outage for removal of the temporary wall.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards considerations. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The NRC staff has reviewed the proposed amendment and has determined that it would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because dedicated operators will shut down the VEGP Unit 2 emergency HVAC systems in the event of a control room isolation signal to ensure that radiation doses are not increased above those previously evaluated. Also, chlorine gas will not be stored on site in a quantity that requires any chlorine protection. In addition, the NRC staff has found that the proposed amendment would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the change does not involve any physical alteration of the plant. Therefore, a failure mode which could lead to a new or different type of accident is not introduced. Finally, the proposed amendment would not (3) involve a significant reduction in a margin of safety because dedicated operators with no other duties will be stationed to shut down the VEGP Unit 2 emergency HVAC systems in the event of an accident.

Accordingly, the Commission proposes to determine that this change does not involve significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a haering.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of the **Federal Register** notice.

Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By April 15, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rule of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be a made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioners's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such as amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene, which must include a list of the contentions that are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisifies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to invervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of 30-days, the Commission will make a final determination on the issue of no significant hazards considerations. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards considerations, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves significant hazards considerations, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards considerations. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Westion Union operator should be given Datagram Identification Number 3737 and the following message addressed to Darl Hood: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Arthur H. Domby, Troutman, Sanders, Lockerman and Ashmore, Chandler Building, Suite 1400, 127 Peachtree Street NE., Atlanta, Georgia 30043.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 23, 1988, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and at the Local Public Document Room, Burke County Public Library, 4th Street, Waynesboro, Georgia 30830.

Dated at Rockville, Maryland, this 25th day of March, 1988.

For The Nuclear Regulatory Commission.

Lawrence P. Crocker,

Acting Director, Project Directorate II–3, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88–7075 Filed 3–30–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–245]

Northeast Nuclear Energy Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–21, issued to Northeast Nuclear Energy Company (the licensee), for operation of the Millstone Nuclear Power Station, Unit No. 1, located in New London County, Connecticut.

The amendment would delete reference to electrical power and change the scram bypass set points to 50% of rated thermal power. The Average

Power Range Monitor Flux Scram Trip Setting will also be changed to maintain consistency throughout the Technical Specifications.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By May 2, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing or a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularlity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene, which must include a list of the contentions that are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room 1717 H Street NW., Washington, DC., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Gerald R. Garfield, Esq., Day, Berry & Howard, Counselors at Law, City Place, Hartford, Conneticut 06103–3499.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding office or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its intent to make a no significant hazards consideration finding in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated August 17, 1987, which is available for public inspection at the Commission's Public Document Room 1717, H Street NW., Washington, DC and at the Waterford Public Libray, 49 Rope Ferry Road, Waterford Connecticut 06385.

Dated at Rockville, Maryland, this 24th day of March 1988.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I–4, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88–7076 Filed 3–30–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–361 and 50–362]

Southern California Edison Co. et al; Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Hearing

The U.S. Neclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–10 and NPF–15 issued to Southern California Edison Company (SCE), San Diego Gas and Electric Company, the City of Riverside, California and the City of Anaheim, California (the licensees), for operation of San Onofre Nuclear Generating Station, Units 2 and 3 located in San Diego, California. The requests for amendments were submitted by letters dated December 14, 1987 and January 26, 1988, and ideintified by you as Proposed Change Numbers 231, 232, 233, 234 and 240. Each proposed change is discussed below.

Proposed Change No. NPG–10/15–23 would revise Figure 3.1–2 of Technical Specification 3/4.1.2.6. "Regulating CEA Insertion Limits." The existing Technical Specification Figure 3.1–2 provides the CEA withdrawal sequence and insertion limits when the Core Operating Limit Supervisory System (COLSS) is in or out of service. The figure also delineates the Short Term and Long Term Steady State Insertion Limits. The revised Technical Specification figure would relax the CEA insertion at low power levels (at or below 25% power).

Proposed Change No. NPF–10/15–232 would revise Surveillance Requirement 4.3.3.2 of Technical Specification 3.3.3.2, "Incore Detectors." The existing Technical Specification defines the operability requirements for the incore

detection system. The surveillance requirements identify the system tests and the frequency with which they are to be performed. These surveillance tests demonstrate the operability of the detection system. The purpose of the Specification is to ensure the measurements from the use of this system accurately represent the nuclear conditions within the reactor core.

Surveillance Requirement 4.3.3.2(a) requires that the incore detection system be domonstrated operable by performance of a channel check within 24 hours prior to its use if 7 or more days have elapsed since the previous check and at least once per 7 days thereafter when required for monitoring the Azimuthal Power Tilt, radial peaking factors, local power density or DNB margin. Thus, the channel check is required weekly independent of the parallel surveillances required for monitoring the other parameters listed above. Technical Specification 3/4.2.2, "Planar Radial Peaking Factors—Fxy," requires that the measured Planar Radial Peaking Factors ($F^m xy$) shall be less than or equal to the Planar Radial Peaking Factors ($F^c xy$) used in the COLSS and in the Core Protection Calculators (CPC) when the reactor is in Mode 1 (critical) above 20 % of rated thermal power. The measured Planar Radial Peaking Factors ($F^m xy$) are obtained by using the incore detection system after each fuel loading with thermal power greater than 40% but prior to operation above 70% of rated thermal power, and at least once every 31 Effective Full Power Days (EFPD). Technical Specification 3/4.2.3, "Azimuthal Power Tilt—tq," requires that the Azimuthal Power Tilt (Tq) be less than or equal to the Azimuthal Power Tilt Allowance used in the CPC when the reactor is in Mode 1 above 20% of rated thermal power. Similarly, Surveillance Requirement 4.2.3(c) requires that the Azimuthal Power Tilt be determined by using the incore detectors at least once per 31 EFPD to independently confirm the validity of the COLSS calculated Azimuthal Power Tilt. The proposed change to Surveillance Requirement 4.3.3.2(a) would change the frequency of performance of the channel check to within 24 hours of its use if 31 EFPD or more had elapsed since the previous check and at least one per 31 EFPD there after when required for monitoring the above listed parameters. The proposed change allows verification of incore detector operability to be performed in conjunction with other routine surveillances.

Proposed Change NPF–10/15–233 would revise Technical Specification 3/4.10.2, "Group Height, Insertion and Power Distribution Limits," and Tables 2.2–1 and 3.3–1. Physics testing requires the measurement of various Control Element Assemblies (CEAs) bank reactivity worths at low reactor power levels. This evolution is currently performed under Technical Specification Special Test Exception 3.10.3. However, that specification test exception was written for partial RCS flow conditions which are not applicable during normal physics testing. The more appropriate test exception to be utilized is 3/4.10.2; however, this test exception references footnote (C) to Table 3.3–1. This footnote allows manual bypass of the trip below 5 percent of rated thermal power only for conduct of special test exception 3/4.10.3. Since the Core Protection Calculators (CPCs) are programmed to trip the reactor on abnormal CEA configurations, it is necessary to raise the Plant Protection System (PPS) 10^{-4} percent power bistable to 5 percent power. This bistable prevents CPC generated trips from causing a reactor trip below the PPS bistable setpoint. The first part of the proposed change would reference Tables 2.2–1, "Reactor Protective Instrumentative Trip Setpoint Limits," and 3.3–1, "Reactor Protective Instrumentation," in the body of Special Test Exception 3.10.2, thus allowing this exception to be used for physics testing. This part of the change would also modify footnote (5) of Table 2.2–1 to indicate that the bypass setpoint be changed during testing pursuant to Special Test Exception 3.10.2. This footnote affects the Local Power Density-High and DNBR-Low entries in the table. Finally, this part of the proposed change would also affect footnote (C) of Table 3.3–1 to indicate that, during testing pursuant to Special Test Expection 3.10.2 (as well as 3.10.3), the trip may be manually bypassed below 5 percent of rated thermal power. This footnote affects the "channels to trip" column for Local Power Density-High, DNBR-Low and the Core Protection Calculator entries in this table.

The second part of Proposed Change 233 would change Surveillance 4.10.2.2. The existing Surveillance 4.10.2.2 requires determination of linear heat rate by monitoring it continuously with the Incore Detector Monitoring System pursuant to the requirements of Specification 4.2.1.3. Specifications 4.2.1.3 is a surveillance requirement in Specification 3/4.2 which requires that the Core Operating Limit Supervisory System Margin Alarm be verified to actuate at the specified interval. This part of the proposed Technical Specification change would change surveillance 4.10.2.2 to reference surveillance 4.2.1.2. This surveillance specifies conditions within which linear heat rate is to be determined.

The third part of Proposed Change 233 would change Table 3.3–1 of the Technical Specifications to exempt Control Element Assembly Calculators (CEACs) from Specifications 3.0.4. Action 6 of the table requires that, with one CEAC inoperable, operation may continue for up to 7 days provided that at least once per 4 hours each CEA is verified to be within 7 inches (indicated position) of all other CEAs in its group. After 7 days the action allows continued operation provided that certain conditions are met. These conditions are the same as those conditions required for operation when both CEACs are inoperable. Under the conditions of Action 6b, operation may continue indefinitely. CEA inoperability has in itself the ability to delay plant startup since the specification is not 3.0.4 exempt. An exemption for CEACs from Specification 3.0.4 would preclude this possible startup delay. This part of the proposed change would modify Action 6 of Table 3.3–1 by inserting a Specification 3.0.4 exemption for inoperability of one of both CEACs (thus allowing plant mode changes to be made).

Proposed Change No. NPF–10/15–234 would revise Technical Specification 3/4.5.1, "Safety Injection Tanks". The existing Limiting Condition for Operation (LCO) 3.5.1.d requires that each reactor coolant system safety injection tank be operable with a nitrogen cover-pressure of between 600 and 625 psig. This requirement in conjunction with other requirements of the LCO ensures that a sufficient volume of borated water will be immediately forced into the reactor core through the cold legs of the Reactor Coolant System (RCS) in the event that the RCS pressure falls below the pressure of the safety injection tanks (SITs). This initial surge of water into the core provides the initial cooling mechanism during large pipe ruptures within the reactor coolant pressure boundary. The proposed change would revise the required upper limit of the nitrogen cover-pressure from 625 psig to 640 psig. This change would prevent possible violation of the pressure limit in the other SITs due to inleakage from the common fill header when one of the tanks is being filled to maintain its pressure within limits. In addition, the proposed change would revised the units of pressure from

pounds per square inch gauge (psig) to pounds per square inch absolute (psig). This would make the units of measurement consistent with other units on the control room panel. Finally, the proposed change would delete the Unit 3 Cycle-2 specific lower SIT boron concentration requirement from the Limiting Condition for Operation.

Proposed Change NPF–10/15–240 would revise Technical Specification 3/4.4.4, "Steam Generators." The surveillance requirements for inspection of the steam generator tubes ensure that the structural integrity of this portion of the RCS will be maintained. The program for inservice inspection of steam generator tubes maintains surveillance of the condition of the tubes in the event that there is evidence of mechanical damage or progressive degradation due to design, manufacturing errors, or inservice conditions that lead to corrosion. In SCE's letter dated April 5, 1985, SCE documented the existence of and the corrective action for steam generator tube wear caused by vibration of an integral diagonal support ("batwing wear"). The corrective action program includes a full 100 percent eddy current inspection of all tubes falling within the "batwing wear" area during every refueling outage and the preventative plugging of tubes.

The Technical Specifications currently require that at least 50% of the tubes selected for the routine inservice inspection shall be located in those areas where experience has indicated potential problems. This would require, for a 3% random sample, more than half of the sample be located in the "batwing wear" area which reduces the size of the first random sample throughout the generator to be less than 1.5%. Additionally, since the "batwing wear" area contains tubes which are subject to the known wear mechanism, the sample base may be increased beyond the initial 3%. However, any additional tube inspection would focus exclusively on the problem areas. Thus, although the tubes experiencing "batwing wear" have been enveloped by the aforementioned program, the current Technical Specifications, when applied as written, would effectively reduce the extent of the random sample outside the wear area and cause unnecessary expansion of the steam generator tube inspection sample basis into the wear area for each inservice inspection.

The proposed change would revise the Technical Specification surveillance requirements to require a special "batwing wear" area inspection and remove this area from the general tube sample selection. This increases the random tube selection outside this well-defined area and provides for a better inspection program. In addition, because the wear phenomenon in the "batwing wear" area is well understood, the results would not be included in the inspection results classification. In summary, the proposed change would revise the Technical Specification surveillance requirements to exclude tubes from the "batwing wear" area from the first tube inspection sample base.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By May 2, 1988, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and petition for leave to intervene. Request for a hearing and petitions for leave to intervene must be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board Panel will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene must set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to particpate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George W. Knighton: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Charles R. Kocher, Esq., Southern California Edison Company, 2244 Walnut Grove Avenue, P.O. Box 800, Rosemead, California 91770 and Orrick, Herrington and Sutcliffe, Attn: David R. Pigott, Esq., 600 Montgomery Street, San Francisco, California 94111, attorneys for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests

for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714 (a)(1)(i)-(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the applications for amendments which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the General Library, University of California at Irvine, Irvine, California 92713.

Dated at Rockville, Maryland, this 23rd day of March, 1988.

For the Nuclear Regulatory Commission.

Harry Rood,

Senior Project Manager, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88-7077 Filed 3-30-88; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-25512; File No. SR-NASD-87-18]

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 the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission ("Commission") on April 8, 1987, and amended on March 17, 1988, the proposed rule change as 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 proposed rule change would eliminate Section B.3 from Part IV of Schedule D to the NASD By-Laws, which currently allows a refund of issuer fees for securities removed from the NASDAQ System.

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 and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. 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 proposed rule change would delete from Schedule D to the NASD By-Laws the provision that allows for a refund upon request by an issuer of that portion of the annual quotation fee attributable to the months following the date on which a security is removed from the NASDAQ System. This amendment was adopted by the NASD Board of Governors at the recommendation of the NASD Corporate Advisory Board. The Corporate Advisory Board is comprised of representatives of NASDAQ issuers and advises the Board of Governors on issuer-related questions. Under the current rule, it has been the practice of the NASD to refund fees, upon request, in instances where companies are removed from the NASDAQ system based upon their failure to meet maintenance requirements for continued inclusion. The NASD has noted, however, that few issuers seek refund of these fees. In 1987, for example, only 31 issuers requested a refund and the average refund was $1,377. In reviewing this policy, both the Corporate Advisory Board and the Board of Governors concluded that the small number of requests for refund did not justify the costs and effort expended in computing and processing refund requests, and that in the Board's business judgment, the refunds should be eliminated.

The NASD believes that the proposed rule change is consistent with section 15A(b)(5) of the Act, which states that the rules of the NASD must provide for the equitable allocation of fees and other charges among members, issuers and other persons using any facility or system which the NASD operates or controls. The NASD believes that the retention of the balance of issuer fees is consistent with the section.

(B) Self-Regulatory Organization's Statement On Burden on Competition

The NASD does not believe that the proposed amendment will impose any burden on competition that is 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 submissions, 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 such 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-87-18 and should be submitted by April 21, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Jonathan G. Katz,

Secretary.

Dated: March 25, 1988.

[FR Doc. 88-7061 Filed 3-30-88; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/1181]

Secretary of State's Advisory Committee on Private International Law; Meeting in New York

The 41st meeting of the subject Advisory Committee will take place at 10:15 a.m. on Friday, April 29, 1988, in the conference room on the 12th floor of the United States Mission to the United Nations at 45th Street and First Avenue, New York City. Members of the general public may attend up to the capacity of the meeting room and participate in the discussion subject to instructions of the Chairman.

The meeting agenda will include a review of domestic and international developments relevant to international unification or harmonization of private law, including the status of the four conventions for which the Senate gave advice and consent to U.S. ratification in October, 1986 and of related Administration-proposed federal legislation pending in Congress. The agenda will also include the following topics: the May, 1988 diplomatic conference on international financial leasing and international factoring; developments concerning the 1973 International Wills Convention; litigation relating to the interpretation of the Hague Service and Evidence Conventions; the draft convention on the liability of operators of transport terminals; the treaties and protocols relating to maritime bills of lading and carriage of goods by sea; UNCITRAL work relating to electronic funds transfers and an international procurement code; developments related to the draft UNCITRAL convention on international negotiable instruments; the draft convention on the law applicable to decedents' estates, and the future work program of the Hague Conference on Private International Law. The Advisory Committee will review the work of its study groups on some of the above topics. There will also be the first step of a review of international conventions produced by the Hague Conference and other international organizations with a view to determining whether the United States might benefit from becoming a party to some of these conventions.

Entry to the U.S. Mission buiding is controlled and will be possible only by advance arrangement. Therefore, members of the general public planning to attend should, prior to April 29, notify the Office of the Assistant Legal Adviser for Private International Law (L/PIL), Department of State, Washington, DC 20520 (telephone: (202)653-9852) of their name, affiliation, address and telephone number.

Peter H. Pfund,

Assistant Legal Adviser for Private International Law and Vice-Chairman, Secretary of State's Advisory Committee on Private International Law.

[FR Doc. 88-7012 Filed 3-30-88; 8:45 am]

BILLING CODE 4710-08-M

[CM-8/1180]

Shipping Coordinating Committee, Subcommittee on Ocean Dumping; Meeting

The Subcommittee on Ocean Dumping of the Shipping Coordinating Committee will hold an open meeting on Thursday, April 14, 1988, at the Office of Marine and Estuarine Protection of the Environmental Protection Agency. The meeting will convene at 2:00 p.m. in the OMEP Conference Room, 8th Floor, 499 South Capitol Street, Washington, DC 20003. Members of the public are invited and free to attend up to the seating capacity of the room.

The purpose of the meeting is to review and discuss the U.S. positions for the Eleventh Meeting of the Scientific Group on Dumping, to be held April 25-29, 1988. The Scientific Group is an advisory body to the London Dumping Convention.

For further information, contact Dr. Al Wastler, Office of Marine and Estuarine Protection (WH-556F), Environmental Protection Agency, Washington, DC 20460. His telephone number is (202) 382-7166.

Date: March 22, 1988.

Richard C. Scissors,

Chairman, Shipping Coordinating Committee.

[FR Doc. 88-7050 Filed 3-30-88; 8:45 am]

BILLING CODE 4710-09-M

[CM-8/1183]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea, Working Group on Containers and Cargoes, Bulk Cargoes Panel; Open Meeting

The Bulk Cargoes Panel of the Working Group on Containers and Cargoes of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting on April 27, 1988 at 9:30 a.m. in Room 1303 at U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593.

The purpose of this meeting is to finalize preparations for the 29th session of the Subcommittee on Containers and Cargoes of the International Maritime Organization (IMO) which is scheduled for May 9-13, 1988. In particular, the Bulk Cargoes panel will discuss the development of U.S. positions dealing with, inter alia, the following topics:

1. Proposed revision of Chapter VI of the International Convention on Safety of Life at Sea (SOLAS) to include basic regulations for the safe carriage of cargoes which owing to their particular hazards to ships or persons on board may require special precautions (except liquids, gases, and those aspects otherwise covered by the Convention).

2. Proposed amendments to the Code of Safe Practice for Solid Bulk Cargoes, including:

—Development of new criteria in respect of liquefaction and sliding failures in solid bulk cargoes;

—Requirements of materials posing chemical hazards; and

—Consideration of requirements for any new cargoes.

3. Carriage of Grain.

4. Revision of the Code of Safe Practice for Ships Carrying Timber Deck Cargoes.

5. IMO activities related to bulk cargoes of a continuing nature. Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. Joseph J. Angelo or Commander Richard S. Tweedie, U.S. Coast Guard Headquarters (G-MVI), 2100 Second Street SW., Washington, DC 20593. Telephone: (202) 267-2978 or 267-1181.

Date: March 17, 1988.

Richard C. Scissors,

Chairman, Shipping Coordinating Committee.

[FR Doc. 88-7048 Filed 3-30-88; 8:45 am]

BILLING CODE 4710-07-M

[CM-8/1184]

U.S. Organization For The International Telegraph and Telephone Consultative Committee (CCITT); Joint Working Party and Study Group C; Meeting

The Department of State announces that the Integrated Services Digital Network (ISDN) Joint Working Party and Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative

Committee (CCITT) will meet on April 21, 1988 at Bellcore, Room B1 and B, 2102 L St. NW., Washington, DC. The meeting will begin at 9:30 a.m.

The purpose of the meeting is to consider U.S. contributions and prepare U.S. positions for the final meeting of CCITT Study Group XI 16–27 May, Geneva, Switzerland. Contributions for the June meeting of Study Group XVIII as well as any other relevant business may also be considered.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the meeting rooms is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise Ms. Larrie McMullen (201) 758–2468.

Date: March 13, 1988.

Earl S. Barbely,

Director, Office of Technical Standards and Development, Chairman, U.S. CCITT National Committee.

[FR Doc. 88–7051 Filed 3–30–88; 8:45 am]

BILLING CODE 4710–07–M

[CM–8/1182]

U.S. Organization For The International Telegraph and Telephone Consultative Committee (CCITT); Study Group A; Meeting

The Department of State announces that Study Group A of the U.S. organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on April 22, 1988 at 9:30 a.m. in Room 3524, Department of State, 2201 C Street NW., Washington, DC.

Study Group A deals with international telecommunications policy and services.

The purpose of the meeting is to consider U.S. contributions and prepare U.S. positions for the final meeting of CCITT Study Group I, May 10–18, 1988 and CCITT Study Group III May 30 to June 7, Geneva, Switzerland.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise the office of Mr. Earl S. Barbely, State Department, Washington, DC.; telephone (202) 653–6102. All attendees must use the C Street entrance to the building.

Date: March 16, 1988.

Earl S. Barbely,

Director, Office of Technical Standards and Development, Chairman, U.S. CCITT National Committee.

[FR Doc. 88–7049 Filed 3–30–88; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 88–016]

Disestablishment of Regional Boating Standards Units (RBSU) South, Central and West; Assumption of Recreational Boating Standards Duties by Coast Guard Marine Safety and Marine Inspection Offices

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: The Coast Guard is reorganizing implementation of the Recreational Boating Standards program in the field by disestablishing its three Regional Boating Standards Units (RBSU): RBSU South located in Miami, FL; RBSU Central located in St. Louis, MO; and RBSU West located in Long Beach, CA. The recreational boating standards duties performed by the three RBSUs will be performed by the Coast Guard Marine Safety and Marine Inspection Offices located throughout the United States.

EFFECTIVE DATE: April 15, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Donald J. Kerlin, Boating Safety Division (G–BBS–1/43), Room 4306, U.S. Coast Guard Headquarters, 2100 Second Street SW, Washington, DC 20593–0001; (202) 267–0988.

SUPPLEMENTARY INFORMATION: As a result of a serious budget shortfall, the Coast Guard is closing the three Regional Boating Standards Units (RBSU): RBSU West in Los Angeles/Long Beach, California; RBSU Central in St. Louis, Missouri; and RBSU South in Miami, Florida. The periodic inspections of recreational boat manufacturing plants and other duties that were formerly done by the three RBSUs will now be accomplished by personnel from Coast Guard Marine Safety and Coast Guard Marine Inspection Offices located throughout the United States.

Dated: March 28, 1988.

W. P. Hewel,

Captain, U.S. Coast Guard Acting Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 88–7090 Filed 3–30–88; 8:45 am]

BILLING CODE 4910–14–M

Federal Highway Administration

Environmental Impact Statement; Washburn and Douglas Counties, WI

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 Washburn and Douglas Counties, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Jaclyn D. Lawton, Environmental Coordinator, Wisconsin Division, FHWA, 4502 Vernon Boulevard, Madison, WI 53705–4905, Telephone: (608) 264–5967.

SUPPLEMENTARY INFORMATION: The FHWA, in coopration with the Wisconsin Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to improve U.S. Route 53 (U.S. 53) in Washburn and Douglas Counties, Wisconsin. The proposed improvement would involve the construction of additional lanes to upgrade U.S. 53 from its present two-lane facility to a four-lane expressway beginning where the existing four-lane ends, approximately 2.5 miles north of the north intersection of U.S. Route 63 (U.S. 63) with U.S. 53 and extending northerly about 44.7 miles to the end of the existing four-lane in the town of Hawthorne, 3.5 miles north of the intersection of CTH "B" and U.S. 53.

Improvements to the corridor are considered necessary to provide for existing and projected traffic demand and economic benefits. Alternatives under consideration include: (1) Taking no action; (2) using alternate travel modes; (3) upgrade the existing highway to provide a four-lane, divided roadway; and (4) upgrade the existing two-lane highway to provide a four-lane, divided roadway with relocation around villages. Incorporated into and studied with the various building alternatives will be designed variations of grade and alignment.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local

agencies, and to provide organizations and citizens who have previously expressed or are known to have interest in this proposal. Meetings with public officials will be held in Minong, Gordon, and Solon Springs between April and July 1988, along with public informational meetings. In addition, a public hearing will be held at a later date. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing. A formal scoping meeting is tentatively planned for April 27, 1988, at a facility close to the project area.

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 Planning and Construction. The regulations implementing Executive Order 12373 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on March 23, 1988.

Frank M. Mayer,

Division Administrator.

[FR Doc. 88-7008 Filed 3-30-88; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: March 25, 1988.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Comptroller of the Currency

OMB Number: 1557-0140.

Form Number: None.

Type of Review: Reinstatement.

Title: Collective Investment Fund Plan/Financial Report.

Description: The written plan for a Collective Investment Fund provides the operating framework for the fund. The Financial Report reflects, on an annual basis, the investment status; including investment changes. Both documents serve as the basic disclosure documents for fund participants.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Burden: 14,600 hours.

Clearance Officer: John Ference (202) 447-1177, Comptroller of the Currency, 5th Floor, L'Enfant Plaza, Washington, DC 20219.

OMB Reviewer: Robert Fishman (202) 395-7340, Office of Management and Budget, Room 3228, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 88-7106 Filed 3-30-88; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: March 25, 1988.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0216

Form Number: 5713, Schedules A, B, and C.

Type of Review: Extension.

Title: International Boycott Report.

Description: Form 5713 and its related Schedules A, B, and C are used by persons who have operations in a "boycotting" country. If that person cooperates or participates in the boycott, he or she loses a portion of the foreign tax credit, the deferral of income under subpart F, DISC benefits, or FSC benefits. IRS uses Form 5713 to determine if any of the above tax benefits should be lost. The information is also used as the basis of a report to the Congress.

Respondents: Individuals or households, Businesses or other for-profit.

Estimated Burden: 12,490 hours.

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 88-7107 Filed 3-30-88; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Career Development Committee; Meeting

The Veterans Administration gives notice under Pub. L. 92-463 that a meeting of the Career Development Committee, authorized by 38 U.S.C. 4101, will be held in the Mezzanine Room #4 of the Sheraton National Hotel, Columbia Pike and Arlington Boulevard, Arlington, Virginia, April 27 through 29, 1988, starting at 8 a.m., April 27. The meeting will be for the purpose of scientific review of applications for appointment to the Career Development Program in the Veterans Administration. The committee advises the Director, Medical Research Service, on selection and appointment of Associate Investigators, Research Associates, Clinical Investigators, Medical Investigators, and Senior Medical Investigators.

The meeting will be open to the public up to the seating capacity of the room from 8 a.m. to 8:45 a.m. on April 27, 1988, to discuss the general status of the program. Because of the limited seating capacity of the room, those who plan to attend should contact Mr. David D. Thomas, Executive Secretary of the Career Development Committee (151J), Veterans Administration Central Office, Washington, DC 20420 (202-233-2317) prior to April 20, 1988. The meeting will be closed from 8:45 a.m. to 5 p.m., April 27; 8 a.m. to 5 p.m. on April 28; 8 a.m. to 3 p.m. on April 29, for consideration of individual applications for positions in the Career Development Program. This necessarily requires examination of personnel files and discussion and evaluation of the qualifications, competence, and potential of the candidates, disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, closure of this portion of the meeting is permitted by section 10(d) of Pub. L. 92-463 as amended, in

accordance with subsection (c)(6), 5 U.S.C. 552b.

Minutes of the meeting and rosters of the committee members may be obtained from David D. Thomas, Chief, Career Development Program, Medical Research Service (151J), Veterans Administration, Washington, DC 20420 (phone 202–233–2317).

Dated: March 23, 1988.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 88–7081 Filed 3–30–88; 8:45 am]

BILLING CODE 8320–01–M

Advisory Committee on Structural Safety of Veterans Administration Facilities; Meeting

The Veterans Administration gives notice under Pub. L. 92–463 that a meeting of the Advisory Committee on Structural Safety of Veterans Administration Facilities will be held in Room 442, of the Lafayette Building, 811 Vermont Avenue NW., Washington, DC, on April 22, 1988, at 10 a.m. The committee members will review Veterans Administration construction standards and criteria relating to fire, earthquake and other disaster resistant construction.

The meeting will be open to the public up to the seating capacity of the room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Mr. Richard D. McConnell, Director, Structural Engineering Service, Office of Facilities, Veterans Administration Central Office (phone 202–233–2864) prior to April 15, 1988.

Dated: March 23, 1988.

By the direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 88–7082 Filed 3–30–88; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 62
Thursday, March 31, 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 DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:15 p.m. on Monday, March 28, 1988, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider matters relating to an assistance agreement pursuant to section 13(c) of the Federal Deposit Insurance Act.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clark (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: March 29, 1988.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Assistant Executive Secretary (Operations).

[FR Doc. 88-7164 Filed 3-29-88; 12:55 pm]

BILLING CODE 6714-01-M

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, April 5, 1988, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
International personnel rules and procedures or matters affecting a particular employee.

* * * * *

DATE AND TIME: Thursday, April 7, 1988, 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings.
Correction and Approval of Minutes.
Eligibility Report for Candidates to Receive Presidential Primary Matching Funds.
Draft AO 1987-34—Leslie J. Kerman on behalf of Telenet Communications Corporation.
Draft AO 1988-10—William E. Taylor.
Routine Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202-376-3155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 88-7188 Filed 3-29-88; 3:26 pm]

BILLING CODE 6715-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, April 6, 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 PERSONS 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: March 29, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-7186 Filed 3-29-88; 2:56 pm]

BILLING CODE 6210-01-M

federal register

Thursday
March 31, 1988

Part II

Department of Commerce

National Telecommunications and Information Administration

Grants for Planning and Construction of Public Telecommunications Facilities; Acceptance of Applications for Filing; Notice

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Grants for Planning and Construction of Public Telecommunications Facilities; Acceptance of New Applications for Filing and Major Amendments to Deferred Applications

Notice is hereby given that the following described applications for Federal financial assistance are accepted for filing under provisions of Title III, Part IV, of the Communications Act of 1934, as amended (47 U.S.C. 399–94) and in accordance with 15 CFR Part 2301. All of the applications listed in this section were received by January 20, 1988. The effective date of acceptance of these proposals, unless otherwise indicated herein, is "Date Received". Applications are listed by their State.

The acceptance of applications for filing is a procedure designed for making preliminary determinations of eligibility and for providing the opportunity for public comment on applications. Acceptance of an application does not preclude subsequent return or disapproval of an application if it is found to be not in accordance with the provisions of either the Act or 15 CFR Part 2301, or if the applicant fails to file any additional information requested by the Public Telecommunications Facilities Program (PTFP). Acceptance for filing does not ensure that an application will be funded; it merely qualifies that application to compete for funding with other applications which have also been accepted for filing.

Any interested party may file comments with the Agency supporting or opposing an application and setting forth the grounds for support or opposition. Such comments must contain a certification that a copy of the comments has been delivered to the applicant. Comments must be sent to the address listed in 15 CFR 2301.5(a).

The Agency will incorporate all comments from the public and any replies from the applicant in the applicant's official file.

Scott Mason,

Chief, Management Branch.

AK (Alaska)

File No. 8008 CRB Raven Radio Foundation, 102 B Lincoln Street, Sitka, AK 99835. Signed By: Mr. Richard McClear, Chief Executive Officer. Funds Requested: $29,886. Total Project Cost: $39,848. To extend and improve the translator network of station KCAW–FM, which operates on 104.7 MHz in Sitka, AK. The project will activate three translators in Sitka itself to overcome multipath interference and shadowing problems which affect about half of the community's residents. It will also activate a satellite-fed translator to Port Alexander, AK, which will be the first public radio signal to that community. Finally, it will purchase satellite receive equipment for KCAW translators in Angoon, Pelican and Tenakee Springs, all in southeast AK, which are currently fed by telephone lines.

File No. 8069 CRB Kachemak Bay Broadcasting, Inc., 215 East Main Court, Homer, AK 99603. Signed By: Mr. Ed Todd, President. Funds Requested: $35,205. Total Project Cost: $51,205. To replace worn-out and obsolete studio production equipment at radio station KBBI–AM, which operates on 890 kHz from Homer, AK. The project will purchase an on-air console, cartridge machines, telephone interfaces, reel-to-reel tape machines, cassette decks, CD players, turntables and diverse associated equipment.

File No. 8186 CTB Capital Community Brdcstg., Inc., 224 Fourth Street, Juneau, AK 99801. Signed By: Mr. Peter Frid, President & General Manager. Funds Requested: $360,000. Total Project Cost: $486,507. To replace worn-out and obsolete studio and field production equipment at television station KTOO, Ch. 3, Juneau, AK. The project will purchase studio cameras, field cameras, 1" VTRs, a studio editing system, a video switcher, an audio mixer, and associated equipment.

File No. 8208 CRB Silakkuagvik Communications, Inc., 1695 Okpik Street, P.O. Box 109, Barrow, AK 99723. Signed By: Ms. Molly Pederson, President. Funds Requested: $25,751. Total Project Cost: $34,335. To extend the signal of radio station KBRW–AM, which operates on 680 kHz from Barrow, AK, to the unserved northern Alaskan communities of Nuiqsut, Kaktovik, and Point Lay. The project will install FM translators in these communities and will bring the first public radio signal to 700 residents of these extremely remote and isolated areas.

AL (Alabama)

File No. 8140 CRB Spring Hill College, 4000 Daupin Street, Mobile, AL 36608. Signed By: Rev. Paul Tipton, President. Funds Requested: $54,545. Total Project Cost: $79,545. To activate a new Radio Reading Service for the print-handicapped. Project will use subcarrier of WHIL–FM in Mobile. Reading Service will extend the Alabama Radio Reading Service Network.

AZ (Arizona)

File No. 8045 CRB Maricopa County Comm. College, 1435 S. Dobson Road, Mesa, AZ 85202. Signed By: Mr. Dan Whittemore, Vice Chancellor. Funds Requested: $86,100. Total Project Cost: $172,200. To improve the transmission capabilities of KJZZ–FM operating on 91.5 MHz Phoenix, Arizona by replacing aging antenna and transmitter units to continue to deliver the only public radio service to the Phoenix area.

File No. 8147 CRB Tuba City High School Board, Inc., P.O. Box 160, Warrior Drive, Tuba City, AZ 86045. Signed By: Mr. Lee "F" Johnson, President. Funds Requested: $72,555. Total Project Cost: $96,740. To establish an educational FM Station operating on 91.5 MHz in Tuba City, Arizona to provide specialized programming to 15,000 residents of the Western Navajo Agency.

File No. 8199 CRB Maricopa Community College Dist., 3l24 East Roosevelt Street, Phoenix, AZ 85008. Signed By: Mr. Dan Whittemore, Vice Chancellor. Funds Requested: $12,587. Total Project Cost: $25,174. To improve the production and transmission capabilities for Sun Sound, a radio reading service for the blind, operating in Phoenix, Arizona by replacing a defective audio control board in order to serve 10,000 print handicapped persons in Maricopa County.

File No. 8258 CRB University of Arizona, Modern Language Building, Tucson, AZ 85721. Signed By: Mr. William Noyes, Associate Vice President. Funds Requested: $66,500. Total Project Cost: $88,667. To establish a new noncommercial FM radio station in Tucson and a Satellite station in Sierra Vista, Arizona operating on 89.1 and 91.3 respectively to provide additional public radio service to the greater Tucson area.

File No. 8300 CRB University of Arizona, Modern Language Building, Tucson, AZ 85721. Signed By: Mr. William Noyes, Associate Vice President. Funds Requested: $6,375. Total Project Cost: $8,500. To extend the signal of public radio station KUAT–FM, Tucson, Arizona by installing an FM translator in Duncan, Arizona operating on 89.7 MHz to bring a first public radio service to 16,113 residents of Graham and Greenlee Counties in Arizona and Grant County, New Mexico.

CA (California)

File No. 8015 CTB KMTF Channel 18, Inc., 733 L Street, Fresno, CA 93721. Signed By: Mr. Colin Dougherty, General Manager. Funds Requested: $50.000.

Total Project Cost: $95,851. To extend the service of KMTF, Ch. 18, Fresno, CA to western Kern County by the construction of a 1,000 watt translator on Ch. 36 to serve some 421,000 people in the greater Bakersfield area.

File No. 8026 CTN Los Angeles Office of Education, 9300 East Imperial Highway, Downey, CA 90242. Signed By: Mr. Kenneth Forkos, Assistant Administrator. Funds Requested: $320,662. Total Project Cost: $429,731. To construct a Ku band satellite uplink for use by the Educational Telecommunications Network, Los Angeles County Office of Education. The project would extend the current program service of the Regional Educational Television Council and would provide satellite delivered instructional materials to some 354 school districts in 12 counties which serve 3 million students.

File No. 8039 CTB Mono County Service Area # 5, Corner School Street and US 395, Bridgeport, CA 93517. Signed By: Mr. Michael Kingston, Acting Chair. Funds Requested: $89,853. Total Project Cost: $119,805. To establish a low power television station operating on Ch. 22, Bridgeport, CA to provide first service to 1,000 residents of Mono County. The project will be affiliated with the Rural Television Service project bringing public television to rural communities through the western United States. The project will replace an unreliable double hop translator system which rebroadcasts the signal of KVIE, Ch. 9 Sacramento and will provide opportunity for local origination in Mono County.

File No. 8042 CRB Redwood Community Radio, Inc., 971 Redwood Drive, Garberville, CA 95440. Signed By: Mr. Tom McBride, President. Funds Requested: $40,943. Total Project Cost: $54,591. To improve the production facilities of KMUD, 91.1 MHz in Garberville, CA. The project will replace outmoded and loaned equipment in master control and construct a full studio and control room for the production of local programming to serve portions of three counties in northern California.

File No. 8083 CTB Rural California Brdcstg. Corp., 5850 Labath, P.O. Box 2638, Rohnert Park, CA 94927. Signed By: Mr. Leroy Lounibos, President. Funds Requested: $84,556. Total Project Cost: $112,741. To improve the production capability of KRCB–TV, Ch. 22 in Rohnert Park CA, by purchasing additional equipment for master control, editing and test use. KRCB serves residents of Sonoma, Marin and Napa counties in northern California.

File No. 8097 CTN Compton Community College, 1111 E. Artesia Blvd., Compton, CA 90221–5393. Signed By: Mr. Edison Jackson, President. Funds Requested: $115,831. Total Project Cost: $154,442. To provide television programming to minority audiences via cable distribution. The project will serve some 36,000 people in the Compton area of metropolitan Los Angeles.

File No. 8108 CRB Pasadena Area Comm. Col. Dist., 1570 East Colorado Blvd., Pasadena, CA 91106. Signed By: Mr. Jack Scott, President. Funds Requested: $61,588. Total Project Cost: $123,177. To extend the service area and improve the facilities of KPCC, 89.3 MHz, Pasadena, CA. The project will fund equipment required to relocate the transmission site to Mt. Wilson, thereby greatly extending the station's service area. Replacement of obsolete studio and test equipment is also included in the project. KPCC serves the greater Los Angeles metropolitan area.

File No. 8125 CRB Escuela de la Raza Unida, 137 N. Broadway, Blythe, CA 92225. Signed By: Ms. Carmela Garnica, Director. Funds Requested: $77,911. Total Project Cost: $103,882. To activate the first public radio station to serve the community of Blythe, CA through the increase in power of 10 watt station KERU–FM, 88.5 MHz, Blythe. The project will include the purchase of master control and studio equipment for the production of local programs. The station will serve an estimated 20,000 people in La Paz County, Arizona and Imperial, County CA.

File No. 8128 CRB Mono County Service District, School & Bryant Streets, Bridgeport, CA 93517. Signed By: Mr. Dean Whitmore, Chairman. Funds Requested: $7,470. Total Project Cost: $9,961. To establish a translator on 91.1 MHz, Bishop CA to provide first public radio service to some 20,000 people living in Bishop and southern Mono County. The translator will rebroadcast the program service of KUNR–FM, Reno, Nevada.

File No. 8151 CRB University of California, M–11 Wheeler Hall, Berkeley, CA 94720. Signed By: Ms. Nancy Caputo, Contracts and Grants Officer. Funds Requested: $45,381. Total Project Cost: $75,555. To improve the facilities of KALX, 90.7 MHz, Berkeley, CA by replacing obsolete studio production equipment and purchasing additional production capacity. The project will also fund a back-up transmitter exciter to insure continued service to 3 million people in the San Francisco Bay area.

File No. 8167 CTN Foothill-DeAnza Comm. Col. Dist., 21250 Stevens Creek Blvd., Cupertino, CA 95014. Signed By: Mr. Robert De Hart, President. Funds Requested: $171,922. Total Project Cost: $229,230. To establish a Ku band satellite uplink at DeAnza College, Cupertino CA to provide instructional materials, teleconferencing and staff development programs to 106 community colleges in the California Community College Satellite Network.

File No. 8173 CTN Imperial County Office of Ed., 1398 Sperber Road, El Centro, CA 92243. Signed By: Mr. William Fisher, Associate Superintendent. Funds Requested: $317,004. Total Project Cost: $422,673. To activate a two channel Instructional Television Fixed Service facility in El Centro, CA to serve Imperial County. The project is a partnership of the Imperial County Office of Education, Imperial Valley College and the Calexico campus of San Diego State University and will distribute programming from all three sources. The project will provide bilingual instruction service to some 56,000 residents of Imperial County.

File No. 8177 CTB Los Angeles Unified School Dist., 1061 West Temple Street, Los Angeles, CA 90012. Signed By: Ms. Lorna Round, Associate Superintendent. Funds Requested: $78,658. Total Project Cost: $157,316. To improve the production facilities of KLCS, Ch. 58, Los Angeles by replacing obsolete production switcher, audio console and lighting equipment. KLCS provides instructional programming for use in the Los Angeles County schools and educational programming to audiences in the Los Angeles metropolitan area.

File No. 8197 CTB KVIE, Inc., 2480 Garden Highway, Sacramento, CA 95833. Signed By: Mr. John Hershberger, President & General Manager. Funds Requested: $110,781. Total Project Cost: $221,562. To improve the programming facilities of KVIE, Ch. 6, Sacramento, by replacing obsolete master control switcher, character generator, film chain and related master control equipment. KVIE serves four million people in 29 counties in north central California.

File No. 8226 CRB California Lutheran University, 60 West Olsen Road, Thousand Oaks, CA 91360–2787. Signed By: Mr. Jerry Miller, President. Funds Requested: $190,762. Total Project Cost: $254,350. To activate a new radio station on 88.3 MHz, Thousand Oaks, California. The project would provide first local origination and will provide some 485,000 people with noncommercial radio service.

File No. 8257 CRB Golden Valley Comm. Brdcstrs., 4950 Cohasset Road #10, Chico, CA 95926. Signed By: Mr.

Erik Mathisen, President. Funds Requested: $87,327. Total Project Cost: $116,437. To activate radio station KZFR, 90.1 MHz, Chico, CA. KZFR will provide alternative radio programming to 200,000 people in Butte, Glenn and Tehama counties.

File No. 8290 CTB Comm. TV of Southern California, 4401 Sunset Blvd., Los Angeles, CA 90027. Signed By: Mr. Donald Youpa, Executive Vice President. Funds Requested: $281,880. Total Project Cost: $563,760. To improve the facilities of KCET, Ch. 28, Los Angeles by replacing obsolete studio cameras with four new cameras for use in program production. KCET serves the greater Los Angeles metropolitan area and southern California.

File No. 8294 CRB San Francisco Unified Sch. Dist., 2905 21st Street, San Francisco, CA 94110. Signed By: Mr. Daniel Del Solar, General Manager. Funds Requested: $57,113. Total Project Cost: $117,113. To improve the facilities of KALW-FM, 91.7 MHz, San Francisco, by replacing obsolete program production equipment. The project will fund a studio console, tape recorders and related equipment used in the production of local programming. The applicant serves some five million people in the San Francisco Bay area.

CO (Colorado)

File No. 8022 CRB Western Colorado Public Radio, 1048 Independent Avenue, Grand Junction, CO 81505-7185. Signed By: Ms. Marsha Thomas, Station Manager. Funds Requested: $51,955. Total Project Cost: $69,274. To improve the programming capabilities of public radio station KPRN-FM operating on 89.5 MHz in Grand Junction, Colorado by installing new studio, production and satellite receive facilities to better serve 250,000 residents of the Western slope of Colorado.

File No. 8029 CTN University of Colorado, Folsom Drive & Colorado Ave., Boulder, CO 80309-0379. Signed By: Mr. Kaye Howe, Vice Chancellor. Funds Requested: $186,240. Total Project Cost: $486,240. To extend and improve the transmission capabilities of the University of Colorado ITFS System in Boulder, Colorado by installing new studio equipment, connecting the system to area cable franchises and adding 6 new ITFS transmitters to provide greater instructional service to 1,000,000 Front Range residents.

File No. 8155 PRTN Native American Satellite Ntwrk., 1328 West Alaska Place, Denver, CO 80223. Signed By: Mr. Albert White Hat, Sr., President. Funds Requested: $72,205. Total Project Cost: $94,785. To plan for the development of a Native American Satellite Network which will provide educational and instructional programming to at least 17 native American institutions of higher education nationally.

File No. 8160 CRB North Fork Valley Public Radio, 213 Grand Avenue, P.O. Box 538, Paonia, CO 81428. Signed By: Ms. Elizabeth Lilien, President. Funds Requested: $21,000. Total Project Cost: $28,000. To extend and improve the signal of public radio station KVNF-FM operating on 90.9 MHz in Paonia, Colorado by increasing the transmitter power from 500 watts to 3kW and installing additional production equipment to provide an improved service to the residents of Delta and Gunnison Counties.

File No. 8188 PTN Region 10 League for Eco. Asst., 301-B North Cascade, Drawer 849, Montrose, CO 81402. Signed By: Mr. William Nesbitt II, Chairman of the Board. Funds Requested: $28,749. Total Project Cost: $29,411. To plan for the establishment of microwave service to the 20 Western Colorado Counties to maintain public TV service to 77,698 and to provide a first public TV service to 168,661 additional residents.

CT (Connecticut)

File No. 8043 CTN Area Cooperative Ed Services, 205 Skiff Street, Hamden, CT 06517. Signed By: Mr. Peter Young, Executive Director. Funds Requested: $375,000. Total Project Cost: $500,000. To extend a pilot distance learning fiber optics project to five additional high school sites. Project will interconnect sites which will share course offerings and staff training.

DC (District of Columbia)

File No. 8080 CRB The American University, 4400 Massachusetts Ave. NW., Washington, DC 20016. Signed By: Mr. Donald Myers, Vice President. Funds Requested: $49,000. Total Project Cost: $99,696. To improve WAMU-FM, operating on 88.5 MHz, in Washington, DC by replacing a worn out antenna and transmission line. WAMU-FM also seeks funding to improve station's remote recording capability as well as studio origination equipment. In addition, station seeks funding to improve the reliability and quality of its satellite recording system.

File No. 8156 PTN Gallaudet University, 800 Florida Avenue, NE., Washington, DC 20002. Signed By: Mr. Raymond Trybus, Dean, Graduate Studies. Funds Requested: $34,207. Total Project Cost: $47,019. To plan/evaluate acquisition of satellite teleconferencing capabilities by examining technical requirements of 2-way interactive. The 2-way interactive telecommunication would be for the use and benefit of the deaf and hearing-impaired. Planning will also evaluate the potential conference sites for teleconference reception and origination capabilities. Project will also evaluate specific programmatic needs.

FL (Florida)

File No. 8003 CTB School Board of Pinellas County, 1960 East Druid Road, Clearwater, FL 34624. Signed By: Dr. Scott Rose, Superintendent. Funds Requested: $150,000. Total Project Cost: $200,000. To construct a new Low Power Television station on either channel 14 or channel 47 in Largo. Station will provide alternative educational service and locally originated programming for Pinellas County and the school district.

File No. 8044 CTB Coastal Educational Broadcasters, 1200 Volusia Ave., P.O. Box 111, Daytona Beach, FL 32015. Signed By: Dr. Don Thigpen, President. Funds Requested: $682,496. Total Project Cost: $1,100,800. To improve WCEU-TV, operating on Channel 15, in New Smyrna Beach. New station requires studio-to-transmitter link (STL), master control equipment and test equipment. Current master control equipment is on loan to the station from the Daytona Beach Community College. Station serves 365,637 residents of Volusia and Flagler Counties. Approximately 4,000 residents of the service area are not covered by the Grade B contour of any other public television station.

File No. 8046 CTB Pensacola Junior College, 1000 College Blvd., Pensacola, FL 32504. Signed By: Dr. Charles Atwell, Executive Vice President. Funds Requested: $175,000. Total Project Cost: $350,000. To improve the facilities of WSRE-TV, Channel 23, by replacing three industrial grade portable cameras. Cameras will be used to upgrade the quality of WSRE's local remote productions.

File No. 8164 CRB Florida State University, 2561 Pottsdamer Street, Tallahassee, FL 32304-6046. Signed By: Mr. Robert Johnson, Vice President. Funds Requested: $207,312. Total Project Cost: $276,416. To activate a new public radio station, to operate on 88.9 MHz, in Tallahassee. Station will repeat the signal of WFSU-FM for six hours/day and for the remainder of the time will broadcast news and information. Station will be connected with WFSU-FM by a two-hop microwave system. Proposed facility will provide first radio service to approximately 201,000 residents.

File No. 8176 CTB WJCT, Inc., 100 Festival Park Avenue, Jacksonville, FL 32202. Signed By: Mr. Fred Rebman, President. Funds Requested: $236,741. Total Project Cost: $473,482. To improve

WJCT–TV, Channel 7, in Jacksonville. Project would replace waveform monitors, camera pedestals, video production switcher, timebase correctors, switching and ENG equipment. WJCT–TV serves approximately 1.275 million residents of Northeast Florida and Southeast Georgia.

File No. 8205 CTB FL West Coast Pub. Brdcstg., Inc., 1300 North Blvd., Tampa, FL 33607. Signed By: Mr. Mark Damen, President. Funds Requested: $304,480. Total Project Cost: $608,961. To improve WEDU–TV, Channel 3, in Tampa-St. Petersburg. Project would replace failing transmitter and acquire necessary test equipment. WEDU–TV serves approximately 3.4 million residents of the Tampa-St. Petersburg area.

File No. 8218 CTB University of Florida, 219 Grinter Hall, Gainesville, FL 32611. Signed By: Mr. Dillard Marshall, Assistant Director of Research. Funds Requested: $71,610. Total Project Cost: $143,220. To improve WUFT–TV, Channel 5, in Gainesville by replacing a Machine Control/Routing Switcher in the station's Master Control. Station serves 600,000 residents of north central Florida. The current model is no longer available and replacement parts are impossible to obtain.

File No. 8223 CTB University of South Florida, 4202 Fowler Ave., SVC 116, Tampa, FL 33620. Signed By: Mr. Frank Lucarelli, Director Sponsored Research. Funds Requested: $582,551. Total Project Cost: $1,165,101. To improve WSFP–TV, Channel 30, in Fort Myers. Project will acquire studio production equipment, a studio-to-transmitter (STL) microwave link and basic test equipment.

File No. 8233 CTN Panhandle Area Ed. Cooperative, 411 West Boulevard, Chipley, FL 32428. Signed By: Ms. Kelly Brock, Chairman of the Board. Funds Requested: $1,389,191. Total Project Cost: $1,852,255. To activate a regional Instructional Television Fixed Service (ITFS) for 9 counties, 96 schools, 2 colleges and 1 university. ITFS telecommunications facilities will serve approximately 219,000 people of northwest Florida. PAEC has obtained the necessary FCC ITFS authorizations for this project.

File No. 8259 CTN Jacksonville University, 2800 University Blvd. N., Jacksonville, FL 32211. Signed By: Dr. Frances Bartlett Kinne, President. Funds Requested: $87,037. Total Project Cost: $116,050. To activate an Instructional Television Fixed Service (ITFS) telecommunications facility in Jacksonville.

GA (Georgia)

File No. 8105 CTB Georgia Public T/C Commission, 1540 Stewart Avenue, SW., Atlanta, GA 30310. Signed By: Mr. Richard Ottinger, Executive Director. Funds Requested: $719,012. Total Project Cost: $1,370,512. To expand and improve the facilities of WCLP–TV, Channel 18, in Chatsworth. Project will replace the existing General Electric transmitter system and extend the signal to an additional 120,000 residents. Station serves approximately 1.4 million residents of north Georgia and southeastern Tennessee.

File No. 8118 CRB Georgia Public Radio, Inc., 409 East Liberty Street, Savannah, GA 31401. Signed By: Mr. Lawrence Roberts, General Manager. Funds Requested: $12,625. Total Project Cost: $25,250. To improve and extend the radio reading service carried on the subcarrier of WSVH–FM, operating on 91.1 MHz, in Savannah. Project will acquire 150 SCA receivers and origination equipment for the radio reading service for the print handicapped. In addition, will replace the old transmitter exciter with a new design and use the older model for backup purposes. Station serves approximately 500,000 residents of the Savannah area.

File No. 8262 CTB Atlanta Board of Education, 740 Bismark Road, NE, Atlanta, GA 30324. Signed By: Mr. Alonzo Crim, Superintendent. Funds Requested: $1,566,135. Total Project Cost: $2,038,180. To improve WPBA–TV, Channel 30, in Atlanta by replacing worn-out, obsolete broadcast equipment. Project would replace transmitter, antenna, transmission line and a variety of origination equipment that is worn-out. WPBA–TV provides an instructional and public television service to approximately 2.5 million residents of the Atlanta area.

GU (Guam)

File No. 8091 CTB Guam Educational T/C Corp., Sesame Street, G.M.F., GU 96921. Signed By: Mr. Joseph Tighe, General Manager. Funds Requested: $66,236. Total Project Cost: $88,315. To improve the facilities of KGTF, Ch. 12, Guam by the purchase of test equipment to maintain the station transmitter. KGTF serves the 115,000 residents of Guam.

HI (Hawaii)

File No. 8024 CRB Hawaii Public Radio, 738 Kaheka Street, Honolulu, HI 96814–3726. Signed By: Mr. Clarence Eblen, President & General Manager. Funds Requested: $67,500. Total Project Cost: $90,000. To purchase 1,000 SCA receivers for use with a new radio reading service for the blind to be broadcast on a subcarrier of KHPR, 88.1 MHz in Honolulu. The radio reading service will be operated by the State Library and will serve the island of Oahu.

IA (Iowa)

File No. 8187 CRB IA Radio-Reading Infor. Service, 1109 Woodland Park Drive, West Des Moines, IA 50265. Signed By: Mr. F.A.D. Kelseyr, President. Funds Requested: $61,573. Total Project Cost: $82,098. To establish a Radio Reading Service for the Blind to serve residents of Des Moines and surrounding areas of Iowa. The project will fund construction of a studio and purchase of 500 specialized radio receivers. This project will replace a 15 hour per week reading service on KDPS Des Moines with a full reading service that will reach 35% of the state's population.

File No. 8253 CTN Hawkeye Institute of Technology, 1501 E. Orange Road, Waterloo, IA 50704. Signed By: Dr. John Hawse, President. Funds Requested: $999,000. Total Project Cost: $2,070,336. To activate a two channel Instructional Television Fixed Service. The project will include five transmission sites in Waterloo, Waverly, Grundy Center, Independence and Allison, IA and equipment for reception and interactive response from 22 sites. Programming will originate from a studio to be constructed at Hawkeye Institute of Technology in Waterloo and from five classrooms. The project will serve 218,000 people in ten counties.

ID (Idaho)

File No. 8005 CRB Boise State University, 1910 University Drive, Boise, ID 83725. Signed By: Dr. Asa M. Ruyle, Vice President. Funds Requested: $34,972. Total Project Cost: $46,630. To extend the signal of public radio station KBSU–FM operating on 91.3 MHz in Boise, Idaho by constructing four translators to provide a first public radio service to 6,487 residents of seven communities in central Idaho.

File No. 8113 CTB Idaho Educational PBS, 1910 University Drive, Boise, ID 83725. Signed By: Mr. Jerold Garber, General Manager. Funds Requested: $511,119. Total Project Cost: $681,493. To improve the programming capabilities of the Idaho Educational Public Broadcasting System by replacing obsolete and inoperative broadcast and production apparatus used to deliver public television service to the residents of the state.

File No. 8170 CRB Idaho State Board of Education, 1910 University Drive, Boise, ID 83725. Signed By: Dr. Asa Ruyle, Vice President. Funds Requested: $32,343. Total Project Cost: $43,125. To extend to signal of public radio station KBSU–FM operating on 91.3 MHz in Boise, Idaho by constructing a repeater station in Twin Falls to bring a first public radio service to 59,112 residents of south central Idaho.

File No. 8171 CRB Idaho State Board of Education, 1910 University Drive, Boise, ID 83725. Signed By: Dr. Asa Ruyle, Vice President. Funds Requested: $55,278. Total Project Cost: $73,705. To extend the signal of KBSU–FM operating on 91.3 MHz in Boise, Idaho by constructing an associated station in McCall, Idaho to provide a first public radio service to 7,201 residents of Adams and Valley Counties.

IL (Illinois)

File No. 8077 CRB Open Media Corporation, 1813 W. Cortland Street, Chicago, IL 60622. Signed By: Mr. Mitchell Lieber, President. Funds Requested: $293,544. Total Project Cost: $399,379. To activate an FM community radio station, the coverage area of which will encompass south Chicago and extreme northeast Indiana. The station will operate on 90.5 MHz with an ERP of 30 kw. Its programming, which will serve the interests of minorities and women, will originate from a main studio in Chicago and a second studio in Gary, IN.

File No. 8087 CTB Southern Illinois University, 1048 Communications Bldg., SIU–C, Carbondale, IL 62901. Signed By: Mr. John Guyon, President. Funds Requested: $105,225. Total Project Cost: $210,450. To purchase a video slide projector, a character generator, two remote video cameras, and two ¾" remote video tape recorders for television station WSIU, which broadcasts on Ch. 8 from Southern Illinois University, Carbondale. The project would improve WSIU's production capability by replacing worn-out and obsolete equipment.

File No. 8090 CRB Northern Illinois University, DeKalb, IL 60115–2874. Signed By: Mr. Robert Albanese, Controller. Funds Requested: $235,015. Total Project Cost: $391,691. To activate an FM radio station that would bring primarily news and jazz programming to the Rockford-DeKalb area of north central Illinois. The new station will operate on 90.5 MHz with an ERP of 50 kw. With the new station's establishment, station WNIU–FM, the signal of which already covers the same area on 89.5 MHz, will change its programming to a full-time classical music format.

File No. 8211 CRB Prairie Air, Inc., 113 N. Market, Champaign, IL 61820. Signed By: Ms. Shaya Zucker, Station Coordinator. Funds Requested: $8,448. Total Project Cost: $11,265. To improve the remote broadcast capabilities of community FM station WEFT, which operates on 90.1 MHz from Champaign, IL, by purchasing a transmitter/mixing console and the accompanying receiver, two hand-carried transmitters, two cassette decks, and two open reel machines. The requested items would replace equipment that is inadequate for WEFT–FM's remote broadcast needs.

File No. 8235 CTB West Central IL Ed. T/C Corp., 434 Brookens, Springfield, IL 62794–9243. Signed By: Dr. Jerold Gruebel, President. Funds Requested: $288,351. Total Project Cost: $384,469. To construct two television translators, one on Ch. 65 in Springfield, IL, and the second on Ch. 51 in Kirksville, MO, along with associated microwave. The Springfield translator will transmit the signal of WJPT–TV, Ch. 14, Jacksonville, IL and the Kirksville translator that of WQEC–TV, Ch. 27, Quincy, IL. The translators will bring a first PTV signal to over 88,000 residents of central IL and northeast MO. WJPT and WQEC are part of the "CONVOCOM" public television network.

File No. 8246 CRB Community High School Dist. 217, 7329 West 63rd Street, Summit, IL 60501. Signed By: Mr. Donald Childs, Principal. Funds Requested: $22,920. Total Project Cost: $31,670. To improve the local origination capabilities of station WARG–FM, Summit, IL, by purchasing the equipment necessary for a production studio. WARG–FM operates on 88.9 MHz with an ERP of 500 w. Its signal reaches approximately 1,500,000 residents of the suburban areas to the immediate southwest of Chicago.

File No. 8266 CRB University of Illinois, 354 Administration Building, Urbana, IL 61801. Signed By: Mr. H. J. Stapleton, Secretary Campus Research. Funds Requested: $33,397. Total Project Cost: $66,794. To improve the program production capability of stations WILL–AM, 580 kHz, and WILL–FM, 90.9 MHz, Urbana, IL, by replacing worn-out and obsolete studio equipment. The project will purchase a master control console, an audio routing switcher, and two reel-to-reel audio tape recorders.

File No. 8267 CRB Western Illinois University, Memorial Hall 401, 900 W. Adams, Macomb, IL 61455. Signed By: Dr. Ralph Wagoner, President. Funds Requested: $42,012. Total Project Cost: $84,025. To install a transmitter and directional antenna for station WIUM–FM, 91.3 MHz, Macomb, IL. The project will increase the station's ERP from 7.2 kW to 50 kW and will bring a first public radio signal to over 120,000 residents of western Illinois, southeast Iowa, and northeast Missouri. The project will also purchase 50 SCA receivers for WIUM's radio reading service for the print-handicapped.

File No. 8281 CTB Chicago Educational TV Assoc., 5400 North St. Louis Avenue, Chicago, IL 60625. Signed By: Mr. John Rahmann, Executive Vice President. Funds Requested: $280,000. Total Project Cost: $560,000. To replace worn-out and obsolete studio and field production equipment at TV station WTTW, Ch. 11, Chicago. The project will purchase two ½" field cameras with associated VTRs, field audio and lighting equipment, a studio editing system, a light board system, a studio production lighting package, a TV demodulator, and diverse test equipment.

IN (Indiana)

File No. 8095 CTB Indiana University, Bryan 215E, Bloomington, IN 47401. Signed By: Mr. William Farquhar, Director Contract Adm. Funds Requested: $62,500. Total Project Cost: $125,000. To upgrade the transmission capabilities of public television station WTIU–TV 30, Bloomington, Indiana by replacing an aging and defective antenna needed to provide programming to 500,000 residents of central Indiana.

File No. 8138 CTB Fort Wayne Public Television, P.O. Box 39, Fort Wayne, IN 46801. Signed By: Mr. William Harris, President. Funds Requested: $829,897. Total Project Cost: $1,244,845. To extend and improve the signal of public television station WFWA–TV channel 39, Fort Wayne, Indiana by installing a 60 kW transmitter, adding new master control, production and satellite receive equipment to provide enhanced local service to 665,000 residents of northeastern Indiana and western Ohio.

File No. 8161 CTB SW Indiana Public Brdcstg., Inc., 405 Carpenter Street, Evansville, IN 47708. Signed By: Mr. David Dial, President & General Manager. Funds Requested: $76,762. Total Project Cost: $102,350. To upgrade the production and transmission capabilities of public television station WNIN–TV channel 9 in Evansville, Indiana by replacing obsolete studio equipment used to deliver programming to 750,000 residents of southern Indiana and southwesten Kentucky.

File No. 8190 CTB Michiana Public Brdcstg. Corp., 2300 Charger Blvd., Elkhart, IN 46514. Signed By: Mr. Don

Checots, Executive Director. Funds Requested: $420,700. Total Project Cost: $601,000. To improve the transmission facilities of public television station WNIT–TV channel 34, Elkhart, Indiana by replacing aging tower, feed line amd antenna needed to deliver programming to 768,000 residents of northern Indiana and southern Michigan.

File No. 8192 CTB Vincennes University, 1002 N. 2nd Street, Vincennes, IN 47591. Signed By: Dr. Phillip Summers, President. Funds Requested: $206,250. Total Project Cost: $275,000. To improve the production and transmission facilities of public TV station WVUT–TV channel 22, Vincennes, Indiana by replacing aging video tape recorders, routing switcher and distribution equipment needed to deliver programming to 296,000 residents of southwestern Indiana and eastern Illinois.

KS (Kansas)

File No. 8086 CRB Kanza Society Incorporated, One Broadcast Plaza, Pierceville, KS 67868. Signed By: Mr. Dale Bolton, Executive Director. Funds Requested: $17,278. Total Project Cost: $34,556. To replace a worn-out transmission line and five audio tape recorders at station KANZ–FM, which operates on 91.1 MHz in Pierceville, KS.

File No. 8213 CTN Kansas Board of Regents, 400 S.W. Eighth Street, Topeka, KS 66603–3911. Signed By: Mr. Stanley Koplik, Executive Director. Funds Requested: $638,912. Total Project Cost: $851,883. To activate a video network transmitting digital, broadband, 1.5 Mgb T1 signals over the existing KANS–A–N voice/data network. The system would be part of the Kansas State Board of Regents Instructional Network and would interconnect nine Regents institutions statewide and Washburn University of Topeka. The network would allow the schools to transmit their instructional programming via a satellite uplink and to share this programming in real time in a two-way video/audio format.

File No. 8214 CTB Washburn University, 301 N. Wanamaker Road, Topeka, KS 66606. Signed By: Dr. John Green, Jr., President. Funds Requested: $49,140. Total Project Cost: $75,600. To replace four worn-out ¾" video tape recorders and purchase a stand-by aural exciter for television station KTWU, which operates on channel 11 in Topeka, KS and is licensed to Washburn University.

File No. 8297 CTB Smoky Hills Public TV Corp., 6th & Elm Streets, P.O. Box 9, Bunker Hill, KS 67626–0009. Signed By: Mr. Kenneth Gardner, Vice President & Gen. Manager Funds Requested: $500,000. Total Project Cost: $777,445. To install four TV translators to extend the signal of station KOOD–TV, which operates on Ch. 9 in Bunker Hill, KS. The translators will be located in Norton, KS (Ch. 39), Oberlin, KS (Ch. 32), Oakley, KS (Ch. 15), and Goodland, KS (Ch. 23). They will bring a first public television signal to over 67,000 residents of northwest Kansas, southwest Nebraska, and eastern Colorado.

KY (Kentucky)

File No. 8030 CRB Louisville Free Public Library, Fourth and York Streets, Louisville, KY 40203. Signed By: Mr. William Ptacek, Director of Library. Funds Requested: $63,829. Total Project Cost: $91,183. To improve the shared facilities of WFPK–FM (91.9 MHz) and WFPL–FM (89.3 MHz) in Louisville. Equipment will replace worn-out, obsolete on-air master control equipment, an optimode and test equipment. Stations serve north central Kentucky and south central Indiana.

File No. 8066 CTB Western Kentucky University, College Heights, Bowling Green, KY 42101. Signed By: Dr. Paul Cook, Executive Vice President. Funds Requested: $276,997. Total Project Cost: $369,330. To acquire local production equipment to assist in the activation of WKYU–TV, channel 24, in Bowling Green. Station will provide first local origination capability for the Bowling Green area. The transmission system for the station has already been purchased.

File No. 8100 CTB Kentucky Educational Television, 600 Cooper Drive, Lexington, KY 40502. Signed By: Ms. Sandra Welch, Deputy Executive Director. Funds Requested: $478,406. Total Project Cost: $956,813. To replace and augment origination and test equipment used by the Kentucky Educational Television state system. KET seeks funding for expansion of routing equipment, replacement of videotape machines and a variety of origination and test items. In addition, seeks assistance to purchase closed video captioning equipment to be used to caption for the deaf and hearing impaired.

File No. 8260 CTB Fifteen Telecommunications Inc., 4309 Bishop Lane, Louisville, KY 40218. Signed By: Mr. John Robert Curtin, General Manager. Funds Requested: $249,156. Total Project Cost: $498,313. To improve WKPC–TV, Channel 15, in Louisville by replacing worn-out, obsolete production equipment. Station serves approximately 1.2 million residents of northern Kentucky and southern Indiana.

File No. 8265 CRB Appalshop, Inc., 306 Madison Street, Whitesburg, KY 41858. Signed By: Mr. R. Raymond Moore, Administrative Director. Funds Requested: $47,067. Total Project Cost: $62,757. To improve WMMT–FM, operating on 88.7 MHz, in Whitesburg. Project would activate 5 translators and acquire a satellite downlink. FM translators would be activated in Virginia at Big Stone Gap (on 88.1 MHz) and in Norton (on 88.3 MHz). In KY, translators would be activated at Harlan (on 88.3 MHz), Hazard (on 89.3 MHz) and Pikesville (on 89.1 MHz). Translators would repeat the signal of WMMT–FM in cities where reception is not of acceptable quality due to terrain.

File No. 8280 CRB University of Kentucky, 340 McVey Hall, Lexington, KY 40506. Signed By: Mr. John Darsie, Jr., Assistant Secretary. Funds Requested: $181,112. Total Project Cost: $241,483. To expand and improve WBKY–FM, operating on 91.3 MHz, in Lexington. WBKY–FN seeks to increase power from 50 KW to 100 KW by relocating and replacing the transmission facilities. Project will improve reception and provide first service to 114,940 residents not currently receiving public radio. Project will also replace worn-out, obsolete production equipment.

LA (Louisiana)

File No. 8096 CRB Northeast Louisiana University, 700 University Blvd., Monroe, LA 71209. Signed By: Dr. Dwight Vines, President. Funds Requested: $505,281. Total Project Cost: $673,708. To activate a new non-commercial FM public radio station, on 90.3 MHz, in Monroe. This proposed full-service station will provide a first service to the northeast section of the state.

File No. 8219 CTB LA Educational TV Authority, 7860 Anselmo Lane, Baton Rouge, LA 70810. Signed By: Ms. Beth Courtney, Executive Director. Funds Requested: $72,675. Total Project Cost: $145,350. To improve the remote capacity of the Louisiana Public Television Network by acquiring six ½-inch portable recording machines. The six machines and associated equipment will support increased activity in educational and instructional television productions. The new machines will replace worn-out, obsolete ¾-inch machines and associated equipment. The six-station state network serves approximately 4.4 million residents of Louisiana.

MA (Massachusetts)

File No. 8101 CRB University of Massachusetts, Harbor Campus, University Drive, Boston, MA 02125–

3393. Signed By: Ms. Dolores Miller, Assistant Director. Funds Requested: $72,609. Total Project Cost: $98,417. To improve WUMB–FM in Boston, by replacing obsolete transmitter and production equipment and to install an STL to replace telephone lines.

File No. 8277 CTN North Shore Community College, 3 Essex Street, Beverly, MA 01915. Signed By: Dr. George Traicoff, President. Funds Requested: $282,525. Total Project Cost: $376,700. To construct a four channel ITFS system in Beverly which would deliver post secondary and continuing education programs to local cable systems. Dissemination and production equipment is requested.

MD (Maryland)

File No. 8002 CTB Maryland Public Brdcstg. Comm., 11767 Bonita Avenue, Owings Mills, MD 21117. Signed By: Mr. Raymond K. K. Ho, President. Funds Requested: $257,500. Total Project Cost: $515,000. To improve WMPB–TV, Channel 67, and the state television network by replacing 3 worn-out video switchers and 2 lighting systems. The switchers were purchased in 1975 and the lighting system was purchased in 1968.

File No. 8103 CRB Frostburg State University, Alumni House, Bradock Road, Frostburg, MD 21532. Signed By: Dr. Herb Reinhard, President. Funds Requested: $41,050. Total Project Cost: $59,490. To vastly improve the origination and test equipment of WFWM–FM, operating on 91.5 MHz, in Frostburg. WFWM–FM, now operating at 165 watts, was originally a carrier current station thus origination and test equipment is quite limited.

File No. 8243 CRB Morgan State University, Cold Spring Lane & Hillen Road, Baltimore, MD 21239. Signed By: Mr. Abraham Moore, Vice President. Funds Requested: $128,246. Total Project Cost: $170,995. To improve WEAA–FM, operating on 88.9 MHz, in Baltimore. WEAA–FM seeks funding to replace worn-out and obsolete origination equipment and to improve the quality of the on-air sound. WEAA–FM operates at 12.5 KW and serves a predominately Black audience in the Baltimore metropolitan area.

MI (Michigan)

File No. 8065 PTN Saginaw Valley State University, 2250 Pierce Road, University Center, MI 48710. Signed By: Mr. Jack Ryder, President. Funds Requested: $45,500. Total Project Cost: $45,500. To plan for an interconnected video network to link six educational institutions serving northeast-central Michigan. Project will provide for an engineering study and legal analysis and FCC application filing.

File No. 8141 CTN Community T/C Network, 7441 Second Blvd., Detroit, MI 48202. Signed By: Dr. Roy Butz, Executive Director. Funds Requested: $920,250. Total Project Cost: $1,227,000. To establish a Technical Operating Center serving the seven members of the Community Telecommunications Network, a consortium of regional ITFS licensees. Project will purchase an automated video cassette library system, switching and test equipment, video tape recorders, amplifiers and a computer.

File No. 8200 CRB University of Michigan, 5500 LSA Building, Ann Arbor, MI 48109. Signed By: Mr. Martin Tobin, Acting Director. Funds Requested: $38,085. Total Project Cost: $76,170. To replace obsolete and worn-out production equipment for radio station WUOM–FM in Ann Arbor, Michigan. The project will purchase ten audio tape recorders and provide necessary audio test equipment.

File No. 8222 CRN Newspapers for the Blind, Inc., 4384 Lapeer Road, Burton, MI 48509. Signed By: Mr. James Doherty, Executive Director. Funds Requested: $272,500. Total Project Cost: $363,400. To extend the Talking Newspaper service to eight unserved metropolitan communities in Michigan. Project will purchase 65 digital record/playback and 19 record/playback, voice-storage machine.

File No. 8234 CRB University of Michigan, 5500 LSA Building, Ann Arbor, MI 48109. Signed By: Mr. Martin Tobin, Acting Director. Funds Requested: $21,865. Total Project Cost: $43,730. To replace worn-out transmission equipment for radio WVGR–FM in Grand Rapids, Michigan. Project will replace the 630-foot transmission line and purchase an air compressor/hydrator to service the line.

File No. 8250 CTN Lake Superior State University, 1000 College Drive, Sault Ste. Marie, MI 49783. Signed By: Mr. H. Erik Shaar, President. Funds Requested: $750,000. Total Project Cost: $1,500,000. To establish a two-way interactive television system to serve eleven communities in the eastern section of Michigan's Upper Peninsula.

MN (Minnesota)

File No. 8051 CRB Minnesota Public Radio, 45 East Seventh Street, Saint Paul, MN 55101. Signed By: Mr. Thomas Kigin, Vice President. Funds Requested: $169,250. Total Project Cost: $226,173. To extend to signal of Minnesota Public Radio operating throughout the state by constructing a repeater station in Appleton, Minnesota to provide a first public radio service to 156,291 residents of west central Minnesota and eastern South Dakota.

File No. 8061 CRB University of Minnesota, 10 University Drive, Duluth, MN 55812. Signed By: Ms. Mary Lou Weiss, Assistant Director. Funds Requested: $28,055. Total Project Cost: $56,111. To upgrade and improve the production facilities of KUMD–FM operating on 103.3 MHz in Duluth, Minnesota by replacing obsolete production equipment needed to deliver programming to 412,000 residents of northeastern Minnesota, northern Michigan and northern Wisconsin.

File No. 8184 CTB Staples Technical Institute, Airport Road, Staples, MN 56479. Signed By: Dr. Stanley Edin, Director. Funds Requested: $345,900. Total Project Cost: $461,200. Staples Technical Institute wishes to establish a two-way interactive fiberoptic television network between Brainerd and Wadena, Minnesota to provide instructional programming between various educational institutions in Crow Wing and Wadena Counties in Minnesota.

File No. 8202 CTB Twin Cities Public TV, Inc., 1640 Como Avenue, St. Paul, MN 55108. Signed By: Mr. Richard Moore, President & General Manager. Funds Requested: $248,500. Total Project Cost: $497,000. To improve the production and transmission facilities of public television station KTCA–TV operating channels 2 and 17 in St. Paul, Minnesota by replacing obsolete equipment essential to station operation as part of a move to a new facility.

File No. 8203 CRB St. Olaf College, Northfield, MN 55057. Signed By: Mr. Melvin George, President. Funds Requested: $282,112. Total Project Cost: $564,225. To extend the signal of public radio station WCAL–FM operating on 89.3 Mhz Northfield, Minnesota into the Twin Cities Metropolitan area by replacing their existing transmission facilities and test equipment and moving their transmitter site 17 miles north in order to provide signal coverage to 910,000 additional listeners.

File No. 8248 CTN State Brd. of Vo-Tech Education, 17 W. Exchange, St. Paul, MN 55102. Signed By: Mr. Joseph Graba, Director. Funds Requested: $149,439. Total Project Cost: $249,439. The Minnesota State Board of Vocational Technical Education wishes to establish a statewide Ku band satellite network to provide educational and teleconferencing services to 154,000 residents.

MO (Missouri)

File No. 8025 CRB The School of the Ozarks, Point Lookout, MO 65726.

Signed By: Dr. William Todd, President. Funds Requested: $54,005. Total Project Cost: $79,005. To purchase a studio-to-transmitter microwave link, with a return telemetry link, for FM radio station KSOZ, which operates on 91.7 mHz and is licensed to The College of the Ozarks, Point Lookout, MO. The microwave link would replace a telephone line STL. The project would also purchase lightning surge protection equipment.

File No. 8162 CTN St. Louis Community College, 5801 Wilson Ave., St. Louis, MO 63110. Signed By: Mr. Michael Crawford, Chancellor. Funds Requested: $502,787. Total Project Cost: $837,978. To establish TV production studios on the three campuses and in the administrative center of St. Louis Community College. The project will activate 12 classroom studios, 1 master production studio, and 1 master control studio, and it will purchase ITFS receive equipment for 5 sites. The studios will produce instructional programming that will be disseminated via diverse media—ITFS, cable TV, broadcast TV, and telephone technology—to sites located throughout greater St. Louis.

File No. 8189 CTB Public Television 19, Inc., 125 East 31st Street, Kansas City, MO 64108. Signed By: Mr. Robert Fuzy, President. Funds Requested: $265,040. Total Project Cost: $530,080. To replace worn-out, obsolete, or inadequate production equipment for television station KCPT, Ch. 19, Kansas City, MO. The project will purchase a master control switcher, a routing switcher, three 1" VTRs, two ¾" VTRs, a film chain, a sync generator, a character generator, a portable camera, color monitors, and diverse items of audio and test equipment.

File No. 8244 CRB Double Helix Corp., 3504 Magnolia Avenue, St. Louis, MO 63118. Signed By: Mr. Brian Costello, Manager. Funds Requested: $36,285. Total Project Cost: $48,385. To purchase a satellite receive-only earth station and equipment for a news/documentary studio and remote production for community radio station KDHX–FM, 88.1 mHz, St. Louis, MO. Station KDHX–FM's programming is designed to meet the needs and interests of the minority groups and women of the greater St. Louis area.

MS (Mississippi)

File No. 8157 CRB Rust College, 150 Rust Avenue, Holly Springs, MS 38635. Signed By: Mr. W. A. McMillan, President. Funds Requested: $102,411. Total Project Cost: $136,548. To improve/upgrade and expand the facilities of WURC–FM, operating on 88.1 MHz, in Holly Springs. WURC–FM has been on the air since July 1987 with equipment that does not provide satisfactory service. Proposal would acquire a new transmitter, 300 ft. tower and transmission line and related equipment as well as origination equipment. Station seeks to serve the Black population of its coverage area.

File No. 8166 CTN Mississippi University for Women, 6th Ave. South & 10th St. South, Columbus, MS 39701. Signed By: Dr. James Strobel, President. Funds Requested: $207,686. Total Project Cost: $276,915. To activate a cable access facility in Columbus. Facility will provide first local origination for Columbus and Lowndes County in east-central Mississippi. Programming will be carried on Columbus TV Cable, Inc.

File No. 8283 CTN Miss. Band of Choctaw Indians, Route 7, Box 21, Philadelphia, MS 39350. Signed By: Mr. Phillip Martin, Tribal Chief. Funds Requested: $222,335. Total Project Cost: $296,473. To activate a production facility to program a cable access channel on the system owned by Northland Cable Television. Production facility will be connected with the cable company by microwave. The cable access facility will provide the first local origination for the area. Programming will be produced in both the Choctaw and English languages.

MT (Montana)

File No. 8062 CTB Boulder TV Translator Assoc., 215 North Madison, Boulder, MT 59632. Signed By: Mr. Ralph Simons, President. Funds Requested: $83,447. Total Project Cost: $111,262. To establish a lowpower noncommercial television K27CD in Boulder, Montana to provide first public television service to 1441 residents of Boulder and surrounding Jefferson County.

File No. 8064 CTB Fort Benton Comm. Improve. Assoc., 515 River, P.O. Box 1062, Fort Benton, MT 59442. Signed By: Mr. Patrick Flanagan. Funds Requested: $90,470. Total Project Cost: $120,626. To establish a noncommercial lowpower TV station K28CD operating on channel 28 Fort Benton, Montana to bring first public television service to 1800 residents of Choteau County.

File No. 8185 CRB KGLT–FM, Strand Union Building, Bozeman, MT 59717. Signed By: Mr. Gordon Stroh, MSU Grants and Contracts. Funds Requested: $3,602. Total Project Cost: $4,882. To extend the signal of public radio station KGLT–FM, 91.9 Mhz Bozeman by constructing a translator in Ennis, Montana to provide a first public radio service to 500 residents.

File No. 8236 CTB Ed. Opportunities for Cen. MT, 215 7th Avenue South, Lewistown, MT 59457. Signed By: Ms. Denna Strong, Secretary. Funds Requested: $90,470. Total Project Cost: $120,626. To establish a remotely controlled lowpower public televison operating on channel 28 in Lewistown, Montana to bring a first locally originated service to 8,000 residents of Fergus and Judith Basin Counties.

File No. 8276 CTB Hot Springs TV District, 100 East Broadway, P.O. Box 259, Hot Springs, MT 59845. Signed By: Mr. Manford Tempero, President. Funds Requested: $83,447. Total Project Cost: $111,262. To establish a remotely controlled low-power public television station operating on channel 33 in Hot Springs, Montana to provide a first public television service to 750 residents of Sanders County, Montana.

NC (North Carolina)

File No. 8111 CTN Winston-Salem State University, P.O. Box 13026, Winston-Salem, NC 27110. Signed By: Dr. Cleon Thompson, Chancellor. Funds Requested: $86,870. Total Project Cost: $116,870. To establish an Instructional Television Fixed Service (ITFS) facility to transmit video-based instruction in the Forsyth County area. ITFS will allow for in-house training of professionals as well as the traditional student population. The project is an outgrowth of the Micro-Electronic Center of NC's Teleclass-Teleconference Microwave Network.

File No. 8122 CRB SE NC Radio Reading Service, Inc., Rt. 1, Box 180–H, Carthage, NC 28327. Signed By: Ms. Era Mae Rickman, Chairperson. Funds Requested: $40,000. Total Project Cost: $60,000. To acquire 750 subcarrier radio receivers to be used by the newly established Radio Reading Service for the print handicapped. The reading service will utilize the subcarrier of WFSS–FM, operating on 89.1 MHz, in Fayetteville. Initially the radio reading service will use the In Touch satellite network for most of its programming.

File No. 8212 CTB Charlotte-Mecklenburg PB Auth., 42 Coliseum Drive, Charlotte, NC 28205. Signed By: Mr. Robert Goodale, Chairman. Funds Requested: $295,008. Total Project Cost: $393,344. To improve WTVI–TV, Channel 42, in Charlotte. Project seeks to replace local origination equipment, including a studio lighting system, and also acquire necessary test equipment. WTVI–TV serves approximately 1.3 million residents of Charlotte and Mecklenburg County.

NE (Nebraska)

File No. 8055 CTB NE Educational T/C Commission, 1800 North 33rd Street, Lincoln, NE 68501. Signed By: Mr. Jack

McBride, Secretary & General Manager. Funds Requested: $131,765. Total Project Cost: $175,687. To replace diverse items of worn-out studio equipment in the mobile production van of the Nebraska Educational Telecommunications Commission, based in Lincoln. The project will purchase a production switcher, a routing switcher, color monitors, a frame syncronizer, a 1" video tape recorder, and an audio cassette recorder.

NJ (New Jersey)

File No. 8084 CRB Elec. Information & Educ. Ser., 59 Scotland Road, South Orange, NJ 07079. Signed By: Mr. John Mulvihill, Jr., General Manager. Funds Requested: $17,441. Total Project Cost: $23,255. To add additional production capacity which will enable the radio reading service to expand programming to 24 hours a day and to provide individualized cassette recordings for specialized audiences.

File No. 8261 CTB NJ Public Brdcstg. Authority, 1573 Parkside Avenue, CN 777, Trenton, NJ 08625. Signed By: Mr. Robert Ottenhoff, Executive Director. Funds Requested: $197,550. Total Project Cost: $263,400. To improve production facilities and to add local origination to network studio in Pomona; to extend coverage of the network by establishing a translator in Cape May, NJ. This request includes cameras, vtr's, switchers, microwave, translator and other equipment.

NM (New Mexico)

File No. 8112 PRB COMUN, Inc., 1609 6th Street, NW, Albuquerque, NM 87102. Signed By: Mr. Vicente Silva, Secretary. Funds Requested: $18,550. Total Project Cost: $35,250. To plan for the activation of a noncommercial FM community radio station to serve Albuquerque, NM, and Bernalillo and Valencia Counties immediately to the south of Albuquerque, with an FM translator bringing the signal to Socorro. The station's programming would be designed to serve the interests of the vast Hispanic population in the coverage area. The project will also explore how to bring a radio reading service to the affected area's print-handicapped.

File No. 8152 CTB Eastern New Mexico University, Station #52, Portales, NM 88130. Signed By: Mr. Duane Ryan, Director of Broadcasting. Funds Requested: $27,575. Total Project Cost: $55,150. To replace a worn-out and obsolete audio production console and a spectrum analyzer at television station KENW, channel 3, licensed to Eastern New Mexico University, Portales.

File No. 8206 CTB University of New Mexico, 1130 University Blvd. NE, Albuquerque, NM 87102. Signed By: Ms. Ann Powell, Research Administration/ UNM. Funds Requested: $75,000. Total Project Cost: $150,000. To purchase three 1" video tape recorders as well as associated time base correctors and monitoring equipment for television station KNME, Ch.5, operated from the University of New Mexico, Albuquerque. The requested items will replace worn-out and obsolete equipment.

NV (Nevada)

File No. 8036 CTB Eureka County Television Dist., 10204 Main Street, Eureka, NV 89316. Signed By: Mr. Mike Rebaleati, Auditor. Funds Requested: $61,728. Total Project Cost: $82,305. To establish a noncommercial lowpower TV station operating on channel 48 to bring a first public television service to 1000 persons in Eureka and surrounding Eureka county.

File No. 8038 CTB Lander County Improvement Dist 1, 315 S. Humbolt, Battle Mountain, NV 89820. Signed By: Ms. Gloria Derby, Chair. Funds Requested: $84,622. Total Project Cost: $112,830. To establish a remotely controlled lowpower TV station operating on channel 32 in Battle Mountain, Nevada to provide a first public television service to 3,500 residents of Lander county.

File No. 8099 CRB Nevada Rehabilitation Division, 505 E. King Street, Room 503, Carson City, NV 89710. Signed By: Mr. Mervin Flander, Chief, BBS. Funds Requested: $62,163. Total Project Cost: $83,163. The Nevada Rehabilitation Division, Bureau of Services to the Blind wishes to establish the first SCA radio reading service by using the signals of KNPR–FM Las Vegas and KUNR–FM Reno to bring specialized programming to 1,000 visually handicapped residents statewide.

File No. 8107 CTB Clark County School District, 2832 E. Flamingo Road, Las Vegas, NV 89121. Signed By: Mr. John Hill, Director Television Services. Funds Requested: $9,000. Total Project Cost: $12,000. To improve the programming capabilities of public Television station KLVX–TV operating on channel 10 in Las Vegas, Nevada by interconnecting the station with the University of Nevada-Las Vegas via microwave to provide additional instructional and informational programming to the residents of greater Clark County.

File No. 8129 CTB Northern Nevada Community Coll., 901 Elm Street, Elko, NV 89801. Signed By: Mr. William Berg, President. Funds Requested: $84,352. Total Project Cost: $112,470. To extend the signal of Public radio station KUNR–FM Reno by establishing an associated station in Elko, Nevada on 91.5 Mhz to provide a first public radio service to 10,000 residents of Elko County.

File No. 8196 CTB Channel 5 Public Brdcstg., Inc., Evans Avenue, P.O. Box 14730, Reno, NV 89507. Signed By: Mr. James Pagliarini, General Manager. Funds Requested: $72,220. Total Project Cost: $96,294. To extend the signal of Public Television station KNPB–TV operating on channel 5 in Reno, Nevada by constructing a microwave fed repeater station to provide a first public television service to 11,996 residents of northern Lyon County and to replace an aging microwave feed presently serving Mineral County.

File No. 8216 CRB Nevada Public Radio Corporation, 5151 Boulder Highway, Las Vegas, NV 89122. Signed By: Mr. Lamar Marchese, General Manager. Funds Requested: $33,588. Total Project Cost: $44,784. To extend the signal of public radio station KNPR–FM operating on 89.5 Mhz Las Vegas, Nevada by constructing a new "associated station" in Panaca, Nevada to provide the first public radio service to 3,500 residents of Lincoln County.

NY (New York)

File No. 8074 CRB Rochester Area Ed. TV Assoc., 280 State Street, Rochester, NY 14601. Signed By: Mr. William Pearce, President. Funds Requested: $66,640. Total Project Cost: $136,000. To improve the transmission quality of WXXI–AM in Rochester by replacing four deteriorated towers and ground system.

File No. 8116 CTB Long Island ETV Council, Inc., 1425 Old Country Road, Plainview, NY 11803. Signed By: Mr. Samuel Francis, President & General Manager. Funds Requested: $405,846. Total Project Cost: $811,692. To improve WLIW–TV in Plainview, New York by replacing worn-out dissemination and origination equipment. Request includes UHF exciter, high efficiency klystron, cameras and production switcher.

File No. 8231 CTB Educational Broadcasting Corp., 356 West 58th Street, New York, NY 10019. Signed By: Mr. George Miles, Jr., Chief Operating Officer. Funds Requested: $130,200. Total Project Cost: $260,400. To upgrade WNET–TV in New York by replacing four obsolete ½ inch videocassette machines and adding three additional machines.

File No. 8273 CTB West. NY Public Brdcstg. Assoc., 184 Barton Street, Buffalo, NY 14213. Signed By: Mr. J.

Michael Collins, President. Funds Requested: $764,912. Total Project Cost: $1,529,824. To improve WNED–TV and WNEQ–TV located in Buffalo, by replacing worn-out and obsolete origination equipment. The request includes switchers, chyron generator, still store and other production equipment.

File No. 8278 CTN NY Institute of Technology, Old Westbury, NY 11568. Signed By: Dr. Matthew Schure, President. Funds Requested: $1,669,181. Total Project Cost: $2,225,575. To develop a telecommunications system which will produce educational programs for historically black colleges and American indian reservations that will be delivered and received by satellite up/down links. The system will allow sharing of institutional resources.

File No. 8286 CTB NE NY Public T/C Council, Inc., One Sesame Street, Plattsburgh, NY 12901. Signed By: Mr. Gerald Bates, President & General Manager. Funds Requested: $180,446. Total Project Cost: $240,715. To improve WCFE–TV, located in Plattsburgh, by replacing industrial grade obsolete studio cameras with EFP cameras and to acquire an editing controller.

File No. 8288 CRB St. Lawrence University, Park Street, Payson Hall, Canton, NY 13617. Signed By: Ms. Ellen Rocco, General Manager. Funds Requested: $39,130. Total Project Cost: $53,853. To extend the signal of WSLU–FM, located in Canton, to the unserved communities of Malone, Saranac Lake, and Long Lake. Service will be provided by two low watt transmitters and one translator.

File No. 8289 CTB Public Brdcstg. Coun. Central NY, 506 Old Liverpool Road, Liverpool, NY 13088. Signed By: Mr. Richard Russell, President & General Manager. Funds Requested: $185,295. Total Project Cost: $370,590. To improve WCNY–TV serving the Liverpool, Syracuse area by replacing worn out and obsolete studio and field equipment. Request includes one-inch vtr's and field equipment.

OH (Ohio)

File No. 8017 CTB Ohio University, 9 S. College Street, Athens, OH 45701. Signed By: Mr. T. Lloyd Chesnut, Associate Provost. Funds Requested: $865,990. Total Project Cost: $1,771,980. To replace a fourteen year old transmission system at WOUC, Ch. 44 Cambridge, Ohio with a new antenna, transmitter and related equipment. The project would also upgrade the four hop STL connecting WOUC with master control in Athens and to enable both WOUC and WOUB, Ch. 20 Athens, to broadcast in stereo. WOUC serves residents in 11 counties in southeast Ohio.

File No. 8023 CRB Youngstown State University, Cushwa Hall, Youngstown, OH 44555. Signed By: Mr. Neil Humphrey, President. Funds Requested: $69,003. Total Project Cost: $138,006. To extend the service area of WYSU–FM, 88.5 MHz, Youngstown, OH and provide first service to areas of northeast Ohio and western Pennsylvania by the construction of a transmission system at a higher elevation. The project will also construct a translator in Ashtabula to provide first service to that area of northeastern Ohio.

File No. 8048 PRB Wilberforce University, 1055 Bickett Road, Wilberforce, OH 45384. Signed By: Mr. Robert Walker, Director of Media Services. Funds Requested: $10,000. Total Project Cost: $13,790. To plan for the activation of a public radio station operated by Wilberforce University which would address cultural, intellectual and social/political events that are of interest to the Black community. The proposed station would serve some 50,000 people in portions of Green, Montgomery and Clark Counties, OH.

File No. 8052 CRB Cleveland Society for the Blind, 1909 East 101st Street, Cleveland, OH 44106. Signed By: Mr. Thomas Cristal, President. Funds Requested: $16,355. Total Project Cost: $32,710. To replace obsolete production equipment, including consoles and tape recorders, used in the production of radio reading service program material. The Cleveland Radio Reading Service serves some 1,200 sight-impaired people in the greater Cleveland OH area.

File No. 8054 CTB NE Educational TV of Ohio, Inc., 275 Martinel Drive, Kent, OH 44240. Signed By: Mr. Torey Southwick, President & General Manager. Funds Requested: $515,000. Total Project Cost: $1,030,000. To replace the 15 year old transmitter and antenna system of WNEO–TV, Ch. 45, Alliance Ohio which serves residents of ten counties in eastern Ohio and western Pennsylvania.

File No. 8070 CTB Greater Dayton Public TV, Inc., 3440 Office Park Drive, Dayton, OH 45439. Signed By: Mr. Jerrold Wareham, President & General Manager. Funds Requested: $324,564. Total Project Cost: $649,128. To improve the transmission system of WPTD, Ch. 16 in Dayton OH, by replacing unreliable exciter and pulsar portions of the transmitter. The project will also provide STL microwave systems for WPTD and WPDO–TV, Ch. 14 Oxford, which are required due to the relocation of the WPTD/WPTO technical center. Additional microwave and switching equipment are included to enable the broadcast of separate programming on each of the two stations.

File No. 8071 CTB The Ohio State University, 2400 Olentangy River Road, Columbus, OH 43210. Signed By: Mr. Dale Ouzts, General Manager. Funds Requested: $476,584. Total Project Cost: $1,042,168. To replace the 15 year old transmission and antenna system of WPBO–TV, Ch. 42, Portsmouth OH, which serves residents in portions of 21 counties in Ohio, Kentucky and West Virginia.

File No. 8110 CRB Toledo Society for the Blind, 1819 Canton Avenue, Toledo, OH 43624. Signed By: Mr. Barry McEwen, Executive Director. Funds Requested: $73,220. Total Project Cost: $97,630. To establish an audio reading service for the visually impaired using the Second Audio Program (SAP) channel of WBGU–TV, Ch. 27, Bowling Green, OH. The project intends to provide the first reading service to some 13,000 residents of the greater Toledo area.

File No. 8134 PTB Cuyahoga Community College, 700 Carnegie Avenue, Cleveland, OH 44115–2878. Signed By: Dr. Nolen Ellison, President. Funds Requested: $254,466. Total Project Cost: $349,460. To plan for the production and dissemination of career information in science, technology and engineering through hardware and programmatic linkages with WVIZ–TV, Ch. 25, Cleveland OH.

File No. 8256 CTB Greater Cincinnati TV Ed. Found., 1223 Central Parkway, Cincinnati, OH 45214. Signed By: Mr. Charles Vaughan, President & General Manager. Funds Requested: $127,680. Total Project Cost: $255,365. To improve the facilities of WCET, Ch. 48, Cincinnati, OH, by replacing a thirty five year old lighting system and expanding the station's routing switcher. WCET serves two million people in the greater Cincinnati area.

File No. 8296 CTB Greater Dayton Public TV., Inc., 3440 Office Park Drive, Dayton, OH 45439. Signed By: Mr. Jerrold Wareham, President & General Manager. Funds Requested: $1,486,752. Total Project Cost: $1,982,336. To improve the facilities of WPTO, Ch. 14, Oxford, OH by relocation of the transmission system and power increase to five megawatts. The project will enable WPTO to provide alternative programming to 2.7 million people in the Cincinnati and Dayton metro areas in southwest Ohio and in 17 counties in Indiana and Kentucky. First service will also be provided to 28,000 people in Decator, Rush and Fayette counties, Indiana.

OK (Oklahoma)

File No. 8193 CTB Rogers State College, Will Rogers & College Hill, Claremore, OK 74017–2099. Signed By: Dr. Richard Mosier, President. Funds Requested: $82,500. Total Project Cost: $165,000. To improve the studio production capability of station KXON–TV, which operates on Ch. 35 from Rogers State College, Claremore, in northeast Oklahoma, by purchasing two 1" video tape recorders.

OR (Oregon)

File No. 8020 CTB Oregon Public Broadcasting, 2828 SW Front Avenue, Portland, OR 97201. Signed By: Mr. Maynard Orme, Executive Director. Funds Requested: $375,857. Total Project Cost: $751,751. To establish a new television facility operating on Ch. 28 in Eugene, OR to provide first public television service to approximately 68,000 residents in Lane and Douglas Counties. The station will broadcast programs from the Oregon Public Broadcast network and will also provide improved reception to 242,000 people in a five county area.

File No. 8146 CRB Tillicum Foundation, 1445 Exchange/Box 269, Astoria, OR 97103. Signed By: Mr. Doug Sweet, Station Manager. Funds Requested: $12,325. Total Project Cost: $16,433. To improve the facilities of KMUN, 91.9 MHz, Astoria, by constructing a news production facility and acquiring compact disk playback capacity. KMUN provides service to some 100,000 people living in northwest Oregon.

File No. 8227 CRB Southern Oregon State College, 1250 Siskiyou Blvd., Ashland, OR 97520. Signed By: Ms. Wilma Foster, Secretary. Funds Requested: $95,302. Total Project Cost: $127,070. To extend the service of KSOR, 90.1 MHz Ashland, by the construction of a repeater station serving Roseburg on 91.5 MHz. The Roseburg repeater will replace a low power translator and will provide first service to 36,307 people. The project will also increase program production facilities at the network operation center in Ashland for the production of programming to serve repeater stations KSKF, Klamath Falls and KSBA Coos Bay which are currently under construction as well as the proposed Roseburg facility.

PA (Pennsylvania)

File No. 8058 PTN Cheyney University of PA, Cheyney Road, Cheyney, PA 19319. Signed By: Dr. Vernon Clark. Funds Requested: $124,640. Total Project Cost: $124,640. To plan for the construction of a 24 channel cable system to serve the University and nearby communities. The system will provide educational programming.

File No. 8059 CTN Cheyney University of PA, Cheyney Road, Cheyney, PA 19319. Signed By: Mr. Vernon Clark. Funds Requested: $544,264. Total Project Cost: $725,686. To plan and construct a 24 channel public cable system and production center that will serve Cheyney University and nearby communities. The system will distribute educational programming.

File No. 8067 CRB University of Pennsylvania, 3905 Spruce Street, Philadelphia, PA 19104. Signed By: Dr. Kim Morrisson, Acting Vice Provost. Funds Requested: $92,353. Total Project Cost: $184,707. To improve WXPN–FM serving Philadelphia, by expanding coverage area by colocating signal site with commercial channel 6 and diplexing signal through their antenna. Project requests diplexer, transmitter, and STL.

File No. 8098 CRB Bux-Mont Educational Radio Assoc, P.O. Box 2012, Warminster, PA 18974. Signed By: Mr. Charles Loughery, President. Funds Requested: $12,822. Total Project Cost: $25,645. To improve the efficiency of WRDV–FM in Warminster, by replacing the 30 year old transmitter.

File No. 8102 CTB Metro. Pittsburgh Pub. Brdcstg., 4802 Fifth Avenue, Pittsburgh, PA 15213. Signed By: Mr. Lloyd Kaiser, President. Funds Requested: $22,000. Total Project Cost: $44,000. To improve WQED–TV channel 13 serving Pittsburgh, by replacing an obsolete character generator with two new ones.

File No. 8106 CTN Fox Chapel Area School District, 611 Field Club Road, Pittsburgh, PA 15238. Signed By: Dr. Daniel Freeman, Superintendent. Funds Requested: $258,680. Total Project Cost: $344,907. To provide production capability for local access via cable to six communities in Allegheny County.

File No. 8137 CRB Metro. Pittsburgh Pub. Brdcstg., 4802 Fifth Avenue, Pittsburgh, PA 15213. Signed By: Mr. Lloyd Kaiser, President. Funds Requested: $18,390. Total Project Cost: $36,780. To improve the operation of WQED–FM, serving Pittsburgh, by replacing a worn-out audio console and audio tape recorders.

File No. 8143 CTN PA Public TV Network Commission, 169 W. Chocolate Avenue, Hershey, PA 17033. Signed By: Mr. H. Sheldon Parker, General Manager. Funds Requested: $32,906. Total Project Cost: $43,875. To provide three major PA public television stations with line 21 captioning systems thereby completing a statewide text network that would provide services for the deaf and hearing impaired.

File No. 8242 CTB Independ. Pub. Media of Phil., 6445 Green St., C101, Philadelphia, PA 19119. Signed By: Ms. Patricia Mae Watkins, President IPMOP. Funds Requested: $638,499. Total Project Cost: $851,332. To construct a television station, WYBE channel 35, serving Philadelphia, which will provide programming to minorities, ethnic neighborhoods, instructional consumers and other underserved audiences.

File No. 8264 CTB WHYY, Inc., 150 North 6th Street, Philadelphia, PA 19106. Signed By: Mr. Frederick Breitenfeld, Jr., President. Funds Requested: $398,100. Total Project Cost: $796,200. To improve the Wilmington, DE studios of WHYY–TV by replacing out-moded and deteriorating production and master control equipment. Request includes cameras, vtr's, switcher and other production equipment.

PR (Puerto Rico)

File No. 8120 CRTB Puerto Rico Telephone Authority, P.O. Box 998, San Juan, PR 00936. Signed By: Mr. Pedro Galaraza, Exective Director. Funds Requested: $323,218. Total Project Cost: $646,435. To replace the damaged antenna of WIPR–FM, 91.3 MHz, San Juan which has forced the station to reduce power to 18 kw and provide service to one third of the island's population. The new antenna will be shared with WIPR–TV, Ch. 6, and will permit WIPR–FM to broadcast the fully authorized power of 125 kw and serve more than three million residents of Puerto Rico.

RI (Rhode Island)

File No. 8060 CTB R.I. Public T/C Authority, 24 Mason Street, Providence, RI 02903. Signed By: Mr. John Renza, Chairman. Funds Requested: $413,790. Total Project Cost: $551,721. To improve WSBE–TV in Providence by replacing obsolete production equipment; request includes switcher, character generator, audio board and other production equipment.

SC (South Carolina)

File No. 8009 CTB South Carolina ETV Commission, 2712 Millwood Ave., Columbia, SC 29205. Signed By: Mr. Robert Frierson, Senior Vice President. Funds Requested: $430,000. Total Project Cost: $985,920. To replace the 25 year old transmitter and antenna system of WNTV, Channel 29, in Greenville.

SD (South Dakota)

File No. 8209 PTN South Dakota State University, Box 2218, Brookings, SD

57007. Signed By: Mr. C.P. Sword, Graduate Dean. Funds Requested: $15,000. Total Project Cost: $20,035. To plan for an interactive video system that would interconnect South Dakota public post-secondary academic institutions, selected off-campus sites, and Native American tribal colleges in the State.

TN (Tennessee)

File No. 8018 CTB Chattanooga Public TV Corp., 4411 Amnicola Highway, Chattanooga, TN 37406. Signed By: Mr. Walter Alley, President & General Manager. Funds Requested: $267,700. Total Project Cost: $535,400. To improve WTCI-TV, Channel 45, in Chattanooga by replacing a 19 year old worn-out, obsolete RCA transmitter.

File No. 8019 PRB Memphis/Shelby Co. Pub. Lib., 1850 Peabody Avenue, Memphis, TN 38104. Signed By: Ms. Judith Drescher, Director of Libraries. Funds Requested: $4,125. Total Project Cost: $5,500. To investigate/plan possible alternative means of delivering programming for the print-handicapped in southwest Tennessee. Possible choices include building new FM or AM station or purchase of existing station. Applicant currently uses the subcarrier of WKNO-FM in Memphis.

File No. 8027 CRB Memphis Community TV Foundation, 900 Getwell Street, Memphis, TN 38111. Signed By: Mr. W. Wayne Godwin, President & Treasurer. Funds Requested: $49,200. Total Project Cost: $98,400. To improve WKNO-FM, operating on 91.1 MHz, in Memphis. WKNO-FM will replace 16 year old RCA transmitter, replace test equipment and acquire transmitter remote control unit.

File No. 8056 CTN East Tennessee State University, Lake Street at Maple, Johnson City, TN 37614. Signed By: Dr. Ronald Beller, President. Funds Requested: $436,798. Total Project Cost: $873,596. To establish an instructional telecommunications system using the combined technologies of 2 channel ITFS, satellite, and compressed video. Satellite technology will use a Ku-band satellite up/down link and the compressed video will use designated T1 telephone lines. Project will provide instructional services to 15 area public schools, colleges/universities, businesses for job training and GED.

File No. 8169 CTB East TN Pub. Communications Corp, 209 Communications Bldg., Knoxville, TN 37996-0321. Signed By: Mr. Neal Branch, Chairman. Funds Requested: $1,205,531. Total Project Cost: $1,607,375. To activate a new public television station on Channel 15 in Knoxville. The proposed station will provide an estimated 937,057 persons with a first-time City Grade/Grade A local signal.

File No. 8183 CTB Memphis Community TV Foundation, 900 Getwell, Memphis, TN 38111. Signed By: Mr. Wayne Godwin, President & Treasurer. Funds Requested: $361,544. Total Project Cost: $911,544. To improve the facilities of WKNO-TV, Channel 45, in Memphis by purchasing equipment to outfit a new mobile production unit. Present mobile unit and equipment have been in use since 1975 and is no longer capable of meeting the needs of the station.

File No. 8198 CTB Upper Cumberland Broadcast Coun., SW Corner Tucker Stadium, Cookeville, TN 38502. Signed By: Mr. Richard Castle, Jr., President & General Manager. Funds Requested: $440,000. Total Project Cost: $880,000. To augment the facilities of WCTE-TV, operating on Channel 22, in Cookeville. Equipment would augment the studio production equipment and ENG equipment to increase instructional and news productions. In addition, would acquire a back-up studio-to-transmitter link (STL) and Ku-band uplink satellite equipment. WCTE-TV provides the only source of regular local television programming for its coverage area.

File No. 8301 CRB University of Tennessee, 615 McCallie Avenue, Chattanooga, TN 37403. Signed By: Mr. Frederick Obear, Chancellor. Funds Requested: $48,712. Total Project Cost: $97,425. To augment the facilities of WUTC-FM, operating on 88.1 MHz, in Chattanooga. Project would augment the on-air control room and production facilities as well as acquire some remote recording equipment.

TX (Texas)

File No. 8021 CRB Taping for the Blind, Inc., 3935 Essex Lane, Houston, TX 77027. Signed By: Mr. Donald Knowlton, President & CEO. Funds Requested: $14,550. Total Project Cost: $19,400. To extend and improve the radio reading service for the print-handicapped of the greater Houston area provided by Taping for the Blind, Inc. by purchasing 200 SCA receivers and two reel-to-reel audio tape recorders.

File No. 8034 CTB Alamo Public T/C Council, 801 S. Bowie, San Antonio, TX 78205. Signed By: Mr. Richard Bothe, Jr., Chairman. Funds Requested: $43,500. Total Project Cost: $87,000. To replace worn-out and obsolete studio equipment for television station KLRN, Ch. 9, San Antonio. The project will purchase a master control room switcher and a package of picture monitors.

File No. 8168 CRB Central Texas College, Highway 190 West, Killeen, TX 76542. Signed By: Mr. Phillip Swartz, President. Funds Requested: $92,152. Total Project Cost: $122,870. To purchase a transmitter, master control room equipment, an audio test set, and an oscilloscope for FM radio station KNCT, which operates on 91.3 MHz from the campus of Central Texas College, Killeen. The requested items will replace worn-out and obsolete equipment.

File No. 8228 CTB Texas A&M University, Bldg. 519, Houston Street, College Station, TX 77843. Signed By: Dr. Donald McDonald, Provost and Vice President. Funds Requested: $353,535. Total Project Cost: $721,500. To replace worn-out and obsolete studio equipment for television station KAMU, Ch. 15, at Texas A&M University, College Station. The project will purchase three studio cameras, two 1" video tape recorders, a routing switcher, a still store, a production switcher, and a number of monitors.

File No. 8249 CTB North Texas Public Brdcstg., Inc, 3000 Harry Hines Blvd., Dallas, TX 75201. Signed By: Mr. Richard Meyer, President. Funds Requested: $112,600. Total Project Cost: $225,200. To purchase four ½" field camera systems, with associated playback units, and four RF microphones for television station KERA, Ch. 13, Dallas, TX. The requested items will replace worn-out and obsolete equipment.

File No. 8254 CTB South Texas Public Brdcstg. Sys., 4455 S. Padre Island Drive, Corpus Christi, TX 78411. Signed By: Mr. Terrel Cass, President & General Manager. Funds Requested: $289,185. Total Project Cost: $385,580. To purchase three 1" video tape recorders, with an associated editing unit, for television station KEDT, Ch. 16, Corpus Christi, TX. The requested VTRs will replace worn-out and obsolete units.

File No. 8263 CRB RGV Educational Brdcstg., Inc., 1701 Tennessee Ave., Harlingen, TX 78550. Signed By: Mr. Randall Feldman, President & General Manager. Funds Requested: $152,681. Total Project Cost: $203,575. To establish an FM radio station that will operate from Harlingen, TX, on 88.9 MHz with an ERP of 2.58 kW. The station will bring a first public radio signal to over 150,000 residents of the Rio Grande Valley in south Texas.

File No. 8272 CRB Amarillo Jr. College District, P.O. Box 447, 2408 S. Jackson, Amarillo, TX 79178. Signed By: Mr. W.L. Prather, Vice President. Funds Requested: $124,800. Total Project Cost: $166,400. To extend the coverage of radio station KACV-FM, which operates on 89.9 MHz and is licensed to Amarillo College, Amarillo, TX. The project will purchase a transmitter that will increase KACV's ERP to 100 kW, a transmission

line that will allow the station to raise its antenna height from 565' to 1000', and remote control equipment. The project will bring a first public radio signal to over 47,000 residents of the Texas Panhandle.

UT (Utah)

File No. 8150 CRB University of Utah, 103 Kingsbury Hall, Salt Lake City, UT 84112–1107. Signed By: Mr. Ted Capener, Vice President. Funds Requested: $33,096. Total Project Cost: $44,128. To improve the transmission capabilities of public radio station KUER–FM operating on 90.1 Mhz in Salt Lake City, Utah by establishing a first separate STL for the station in order to insure proper legal operation.

File No. 8179 CRTBN University of Utah, 205 Talmage Building, Salt Lake City, UT 84112. Signed By: Mr. Ted Capener, Vice President. Funds Requested: $678,765. Total Project Cost: $905,021. To extend the signals of KUED–TV, KULC–TV operating on Channels 7 & 9 respectively in Salt Lake City, Utah by continuing the construction of the state microwave system to St. George and Gunnison, adding additional translators and installing additional production facilities.

File No. 8181 CTB University of Utah, 101 Gardner Hall, Salt Lake City, UT 84112–1107. Signed By: Mr. Ted Capener, Vice President. Funds Requested: $716,348. Total Project Cost: $955,131. To improve the Transmission capability of public Television station KUED–TV Salt Lake City, Utah by replacing an obsolete transmitter STL and Test Equipment to continue to serve over 2,300,000 persons in five rocky mountain states.

File No. 8251 CRB Dixie College, 225 South 700 East, St. George, UT 84770. Signed By: Dr. Max Rose, Vice President. Funds Requested: $41,277. Total Project Cost: $55,036. To extend the signal of public radio station KUER–FM Salt Lake City, Utah by increasing the power of an "associated station" KRDC–FM St. George, Utah from 10 watts to 105 watts thus providing a first locally originated public radio service to 21,000 residents of Washington County.

VA (Virginia)

File No. 8032 CRB Central VA Educational TV Corp., 23 Sesame Street, Richmond, VA 23235–0026. Signed By: Mr. Richard Hall, Vice President, Broadcasting. Funds Requested: $227,034. Total Project Cost: $302,713. To construct a radio station in Richmond which will provide the only public service; current station providing public signal is on a commercial frequency and has recently been sold.

File No. 8053 PRN Hampton University, Hampton, VA 23668. Signed By: Mr. William Harvey, President. Funds Requested: $10,125. Total Project Cost: $10,125. To plan and purchase equipment for a radio production facility at WHOV–FM in Hampton that would research listener interest and produce minority programming.

File No. 8078 CTB Shenandoah Valley ETV Corp., 298 Port Republic Road, Harrisonburg, VA 22801. Signed By: Mr. Arthur Albrecht, President. Funds Requested: $226,905. Total Project Cost: $453,810. To upgrade current translator near Front Royal to a 5 kW transmitter which will operate as a satellite of WVPT–TV located in Harrisonburg.

File No. 8094 CRB Saint Paul's College, 406 Windsor Avenue, Lawrenceville, VA 23868. Signed By: Mr. Marvin Scott, President. Funds Requested: $78,312. Total Project Cost: $104,416. To activate a public radio station on 91.7 which will provide first service to the community of Lawrenceville.

File No. 8121 CRB Virginia Tech Foundation, 4235 Electric Road, S.W., Roanoke, VA 24014. Signed By: Mr. Charles Forbes, Executive Vice President. Funds Requested: $187,629. Total Project Cost: $250,173. To extend the signal of WVTF–FM, located in Roanoke, to the unserved community of Charlottesville by replacing an inefficient translator with a repeater transmitter.

File No. 8154 CTB Central VA Educational TV Corp., 8101A Lee Highway, Falls Church, VA 22042. Signed By: Mr. Daniel Ward, Corporate Vice President. Funds Requested: $752,167. Total Project Cost: $1,504,334. To improve WNVT–TV, channel 53 serving the greater Washington, DC area by replacing the obsolete transmission system and upgrading it. The request includes transmitter, antenna and backup STL.

File No. 8221 CTB Hampton Roads Ed. T/C Assoc., 5200 Hampton Blvd., Norfolk, VA 23508. Signed By: Mr. John Morison, President & General Manager. Funds Requested: $116,970. Total Project Cost: $233,940. To improve the operation of WHRO–TV in Norfolk by replacing worn-out and obsolete routing switcher and vtr's.

File No. 8224 CTN Hampton Roads Ed. T/C Assoc., 5200 Hampton Blvd., Norfolk, VA 23508. Signed By: Mr. John Morison, President & General Manager. Funds Requested: $435,320. Total Project Cost: $580,426. To expand the ITFS educational services provided by Hampton Roads Educational T/C Association into the rural minority areas of southeast VA by adding a system of 10 transmitters, 8 repeaters and cable carriage.

VT (Vermont)

File No. 8014 PRB Goddard College, Route 214, Plainfield, VT 05667. Signed By: Mr. Jack Lindquist, President. Funds Requested: $16,050. Total Project Cost: $21,400. For WGDR–FM of Goddard College to survey the needs and interests of their community and to plan the most efficient means of improving their transmission system.

File No. 8180 CTB University of Vermont, 88 Ethan Allen Avenue, Winooski, VT 05404. Signed By: Ms. Patricia Armstrong, Director. Funds Requested: $631,937. Total Project Cost: $842,583. To improve services of the statewide network by replacing the 20 year old antenna and transmitter located in Windsor. The increased power of the new transmitter will substantially improve coverage within the coverage area.

WA (Washington)

File No. 8131 CRB Northern Sound Public Radio, 119 N. Commercial St., Suite 310, Bellingham, WA 98225. Signed By: Ms. Gayle Thompson, General Manager. Funds Requested: $21,440. Total Project Cost: $29,586. To improve the programming capabilities of the new radio station under construction in Bellingham, WA which will serve northern Puget Sound communities through broadcasts on 91.7 MHz, by the addition of a satellite receive terminal. This equipment will permit direct station receipt of national programming from National Public Radio and other program sources.

File No. 8163 CTN Educational Service District 112, 1313 NE 134th Street, Vancouver, WA 98685. Signed By: Mr. Charles Fromhold, Superintendent. Funds Requested: $62,758. Total Project Cost: $98,554. To extend the program distribution of the Instructional Materials Cooperative, Educational Service District 112, Vancouver, to five school districts in Cowlitz County. The applicant will construct a two hop microwave to provide its programming to Cableview Entertainment, Longview for cable carriage to some 15,000 students. The applicant currently provides service to some 35,000 students in five school districts in Clark County through a similar interconnection with the Columbia Cable system.

File No. 8201 CTB Washington State University, Administration Drive, Pullman, WA 99164–2530. Signed By: Mr. Robert Smith, Vice Provost for Research. Funds Requested: $384,800. Total Project Cost: $769,600. To improve the facilities

of KWSU, Ch. 10 Pullman, WA by replacing obsolete dissemination and production equipment. The project will fund a new transmitter and STL, master control switcher, studio cameras and 1" videotape machines. KWSU and its repeater station KTNW serve some 634,000 residents of southeastern Washington, north-central Idaho and northeastern Oregon.

File No. 8210 CRB KPBX Spokane Public Radio, N. 2319 Monroe Street, Spokane, WA 99205. Signed By: Mr. Brian Flick, General Manager. Funds Requested: $49,943. Total Project Cost: $66,591. To improve the facilities of KPBX, 91.1 MHz, Spokane WA by replacing obsolete studio equipment, including tape recorders and audio console. The project will also purchase a back-up STL to ensure continued station service to some 769,000 residents of the Inland Northwest area of Washington State.

WI (Wisconsin)

File No. 8132 CTN Gateway Technical College, 3520 30th Avenue, Kenosha, WI 53141. Signed By: Mr. John Birkholz, District Director. Funds Requested: $98,587. Total Project Cost: $131,450. To establish a video production studio to be associated with the Instructional Television Fixed Services (ITFS) system of Gateway Technical Institute, Kenosha, WI. The ITFS system will transmit a variety of instructional programming to the Institute's campuses as well as to secondary public schools and business/industrial sites throughout the Kenosha area.

File No. 8268 CTB University of Wisconsin, 821 University Avenue, Madison, WI 53706. Signed By: Mr. Gerald L. Praedel, Adm. Officer, Res. Adm.-Finan. Funds Requested: $200,640. Total Project Cost: $401,280. To replace a worn-out and obsolete routing switcher for television station WHA, Ch. 21, Madison, WI. Besides bringing the sole PTV signal to the Madison area, WHA–TV is one of the stations providing locally-produced programming to the State's public television network, which is administered by the Wisconsin Educational Communications Board.

WV (West Vinginia)

File No. 8012 CRB West Virginia Library Commission, Cultural Center, Capitol Complex, Charleston, WV 25302. Signed By: Mr. Frederic Glazer, Director. Funds Requested: $4,387. Total Project Cost: $8,774. To extend the radio reading service for the print handicapped by purchasing 100 SCA receivers.

File No. 8298 CTB WV Educational Brdcstg. Auth., 191 Scott Avenue, Morgantown, WV 26507. Signed By: Mr. Kenneth Jarvis, Executive Director. Funds Requested: $636,716. Total Project Cost: $1,061,193. To improve WNPB–TV in Morgantown by replacing their obsolete 20 year old transmission system and increasing power to provide a better signal within their coverage area and extending that signal beyond its current reach.

WY (Wyoming)

File No. 8104 CTB Central Wyoming College, 2660 Peck Avenue, Riverton, WY 82501. Signed By: Mr. Edward Donovan. Funds Requested: $778,205. Total Project Cost: $1,037,608. To extend the signal of public television station KCWC–TV, operating on channel 4, Riverton, Wyoming, by constructing two microwave-fed translators to serve Gillette and Sheridan providing a first over-the-air service to 50,000 residents of northern Wyoming.

AK (Alaska)

File No. 8229 CRB, Old File Nos. 7113, Alaska Public Radio Network, Anchorage, AK.

AL (Alabama)

File No. 8182 CTB, Old File Nos. 7270, Alabama ETV Commission, Birmingham, AL.

File No. 8303 CRB, Old File Nos. 7002, 6013, Sable Community Brdcstg. Corp., Hobson City, AL.

AR (Arkansas)

File No. 8040 CRB, Old File Nos. 7329, 6261, University of Central Arkansas, Conway, AR.

AS (American Samoa)

File No. 8232 CTB, Old File Nos. 7313, American Samoa Government, Pago Pago, AS.

CA (California)

File No. 8010 CRB, Old File Nos. 7038, KXOL, Chico, CA.

File No. 8031 CRB, Old File Nos. 7077, 6188, University of Southern CA, Los Angeles, CA.

File No. 8109 PRB, Old File Nos. 7190, WATTS Communication Network, Los Angeles, CA.

File No. 8124 CTB, Old File Nos. 7297, 6135, Minority Television Project, Inc, San Francisco, CA.

File No. 8274 CRB, Old File Nos. 7059, Pacifica Foundation, North Hollywood, CA.

CO (Colorado)

File No. 8033 CTB, Old File Nos. 7145, Kit Carson County, Burlington, CO.

File No. 8299 CTB, Old File Nos. 7160, Front Range Ed. Media Corp., Broomfield, CO.

CT (Connecticut)

File No. 8075 CTB, Old File Nos. 7228, Connecticut Public Brdcstg. Corp, Hartford, CT.

FL (Florida)

File No. 8016 CRB, Old File Nos. 7135, University of Central Florida, Orlando, FL.

File No. 8035 CRB, Old File Nos. 7025, 6240, School Board of Dade County, FL, Miami, FL.

File No. 8088 CTB, Old File Nos. 7026, 6321, School Board of Dade County, FL, Miami, FL.

File No. 8114 CRB, Old File Nos. 7024, 6266, School Board of Dade County, FL, Miami, FL.

File No. 8262 CRB, Old File Nos. 7007, University of Florida, Gainesville, FL.

GA (Georgia)

File No. 8233 CRB, Old File Nos. 7244, Radio Free GA Brdcstg. Found., Atlanta, GA.

File No. 8220 CRB, Old File Nos. 7062, Atlanta Board of Education, Atlanta, GA.

IA (Iowa)

File No. 8049 CTN, Old File Nos. 7174, 6162, 5090, Eastern Iowa Comm. College Dist., Davenport, IA.

File No. 8081 CTB, Old File Nos. 7109, Iowa Public Broadcasting Board, Johnston, IA.

ID (Idaho)

File No. 8115 CRB, Old File Nos. 7181, 6332, Wood River Public Broadcasting, Ketchum, ID.

File No. 8245 CRB, Old File Nos. 7251, Idaho Migrant Council, Inc., Caldwell, ID.

IL (Illinois)

File No. 8085 CRB, Old File Nos. 7334, Southern Illinois University, Carbondale, IL.

File No. 8148 CTB, Old File Nos. 7018, Black Hawk College, Moline, IL.

IN (Indiana)

File No. 8119 CTB, Old File Nos. 7214, 6019, 5106, 4093, Metro. Indianapolis PB, Inc., Indianapolis, IN.

MA (Massachusetts)

File No. 8013 CRB, Old File Nos. 7322, 6229, WICN Public Radio, Inc., Worcester, MA.

File No. 8194 CTB, Old File Nos. 7147, WGBH Educational Foundation, Springfield, MA.

MD (Maryland)

File No. 8175 CRB, Old File Nos. 7012, Salisbury State College Foundation., Salisbury, MD.

File No. 8247 CTN, Old File Nos. 7330, 6338, 5401, Chesapeake College, Wye Mills, MD.

ME (Maine)

File No. 8004 CTB, Old File Nos. 7011, University of Maine System, Bangor, ME.

File No. 8057 CRB, Old File Nos. 7237, Salt Pond Comm. Brdcstg. Co., South Blue Hill, ME.

MI (Michigan)

File No. 8006 CTB, Old File Nos. 7047, University of Michigan-Flint, Flint, MI.

File No. 8068 CRB, Old File Nos. 7209, 6311, 5411, 4086, 3026, 2109, Delta College, University Center, MI.

File No. 8252 CRTBN, Old File Nos. 7097, Northern Michigan University, Marquette, MI.

File No. 8295 CRB, Old File Nos. 7056, 6111, 5289, 4254, 3105, 2048, Central Michigan University, Mt. Pleasant, MI.

MN (Minnesota)

File No. 8217 CTB, Old File Nos. 7332, Northern MN Public TV, Inc., Bemidji, MN.

MO (Missouri)

File No. 8136 CRB, Old File Nos. 7222, University of Missouri, Rolla, MO.

MS (Mississippi)

File No. 8204 CRB, Old File Nos. 7112, Mississippi Valley State University, Itta Bena, MS.

MT (Montana)

File No. 8063 CTB, Old File Nos. 7034, Meagher County Public TV, Inc., White Sulphur Springs, MT.

File No. 8089 CTB, Old File Nos. 7102, Choteau School District #1, Choteau, MT.

File No. 8225 CTB, Old File Nos. 7277, Whitehall Low Power TV, Inc., Whitehall, MT.

File No. 8237 CTB, Old File Nos. 7131, Bitter Root Valley Public TV, Hamilton, MT.

File No. 8279 CTB, Old File Nos. 7074, Thompson Falls TV District, Thompson Falls, MT.

NC (North Carolina)

File No. 8302 CRB, Old File Nos. 7196, University of North Carolina, Chapel Hill, NC.

ND (North Dakota)

File No. 8165 CTB, Old File Nos. 7243, Prairie Public Broadcasting, Inc, Fargo, ND.

NE (Nebraska)

File No. 8050 CTN, Old File Nos. 7169, 6086, Metropolitan Tech. Comm. College, Omaha, NE.

File No. 8304 PRB, Old File Nos. 7226, Nebraska Educational T/C Comm., Lincoln, NE.

NJ (New Jersey)

File No. 8135 CTN, Old File Nos. 7116, Board of Education of Township of Union, Union, NJ.

NM (New Mexico)

File No. 8093 CRB, Old File Nos. 7281, San Juan College, Farmington, NM.

File No. 8178 CTB, Old File Nos. 7162, New Mexico State University, Las Cruces, NM.

File No. 8239 CTN, Old File Nos. 7104, 6195, 5098, University of New Mexico, Albuquerque, NM.

NV (Nevada)

File No. 8145 CTB, Old File Nos. 7326, 6009, 5028, 4256, Lyon County, Yerington, NV.

File No. 8195 CTB, Old File Nos. 7051, Channel 5 Public Brdcstg., Inc., Reno, NV.

File No. 8215 CRB, Old File Nos. 7029, Nevada Public Radio Corporation, Las Vegas, NV.

NY (New York)

File No. 8041 CRB, Old File Nos. 7267, Shawangunk Communications, Otisville, NY.

File No. 8142 CRB, Old File Nos. 7240, Radio Catskill, Jeffersonville, NY.

File No. 8172 CRB, Old File Nos. 7194, State University of New York, Oswego, NY.

File No. 8269 CTB, Old File Nos. 7139, WSKG Public T/C Council, Conklin, NY.

File No. 8285 CRB, Old File Nos. 7290, NE NY Public T/C Council, Inc., Plattsburgh, NY.

File No. 8291 CTN, Old File Nos. 7233, Columbia-Greene Comm. College, Hudson, NY.

OH (Ohio)

File No. 8072 CTN, Old File Nos. 7234, Lorain County Community College, Elyria, OH.

File No. 8076 CRB, Old File Nos. 7266, Public Brdcstg. Found. of NW OH, Toledo, OH.

File No. 8275 CRB, Old File Nos. 7049, 6098, Miami University, Oxford, OH.

OK (Oklahoma)

File No. 8126 CRB, Old File Nos. 7017, 6044, Cameron University, Lawton, OK.

OR (Oregon)

File No. 8007 CRB, Old File Nos. 7073, KBOO Foundation, Portland, OR.

PA (Pennsylvania)

File No. 8001 CTB, Old File Nos. 7028, NE Pennsylvania ETV Association, Pittston, PA.

File No. 8123 CRB, Old File Nos. 7185, Widener University, Chester, PA.

File No. 8139 CRB, Old File Nos. 7262, Muhlenberg College, Allentown, PA.

File No. 8149 CRB, Old File Nos. 7257, Public Broadcasting of NW PA, Erie, PA.

File No. 8230 CTB, Old File Nos. 7020, Pennsylvania State University, University Park, PA.

File No. 8238 CRB, Old File Nos. 7285, Pennsylvania State University, University Park, PA.

File No. 8292 CRB, Old File Nos. 7307, WITF, Inc., Harrisburg, PA.

PR (Puerto Rico)

File No. 8241 CTB, Old File Nos. 7232, 6280, Fundacion Educativa Ana Mendez, Cupey, Rio Piedras, PR.

SC (South Carolina)

File No. 8174 CRB, Old File Nos. 7091, SC Educational TV Commission, Columbia, SC.

SD (South Dakota)

File No. 8117 CTB, Old File Nos. 7201, State Bd. of Dir. for ETV, Vermillion, SD.

File No. 8255 CRB, Old File Nos. 7211, State Brd. of Dir., Educ. TV, Vermillion, SD.

TN (Tennessee)

File No. 8092 CTN, Old File Nos. 7284, Chattanooga St. Tech. Comm. Col., Chattanooga, TN.

File No. 8144 CTB, Old File Nos. 7103, West TN Public TV Council, Inc., Martin, TN.

TX (Texas)

File No. 8158 CTB, Old File Nos. 7033, Texas Tech University, Lubbock, TX.

File No. 8191 CTB, Old File Nos. 7069, Capital of TX Pub. T/C Council, Austin, TX.

File No. 8284 CTB, Old File Nos. 7311, El Paso Public Television Found, El Paso, TX.

VA (Virginia)

File No. 8028 CRB, Old File Nos. 7309, 6272, VA Voice for Print Handicapped, Richmond, VA.

WI (Wisconsin)

File No. 8130 CRB, Old File Nos. 7142, Gateway Technical College, Kenosha, WI.

File No. 8287 CTB, Old File Nos. 7133, Wisconsin Educational Comm. Brd, Madison, WI.

WY (Wyoming)

File No. 8159 CRB, Old File Nos. 7187, University of Wyoming, Laramie, WY.

[FR Doc. 88-6822 Filed 3-30-88; 8:45 am]
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Federal Register

Thursday
March 31, 1988

Part III

Department of the Treasury

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 72, 178, and 179
Commerce in Firearms and Ammunition; Final Rule

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 72, 178, and 179

[T.D. ATF-270; Ref: Temporary Rules T.D. ATF-241 and 247]

Commerce in Firearms and Ammunition

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Final rule (Treasury decision).

SUMMARY: This final rule amends regulations in 27 CFR Parts 72, 178, and 179 to implement provisions of various new statutory requirements. These new statutory requirements concern commerce in firearms and machine guns, interstate transportation of firearms, commerce in armor piercing ammunition, and changes in forfeiture and bond amounts under the Internal Revenue Code and under Customs laws.

EFFECTIVE DATE: The final rule is effective May 2, 1988.

FOR FURTHER INFORMATION CONTACT: Daniel E. Crowley, ATF Specialist, Firearms and Explosives Operations Branch, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue NW., Washington, DC 20226; (202) 566-7591.

SUPPLEMENTARY INFORMATION: Some of the new statutory provisions which necessitated regulation changes are:

(1) Nonlicensees may acquire rifles and shotguns, but not handguns, from Federal firearms licensees outside their State of residence if the sale complies with State and local laws applicable at the place of sale and where the purchaser resides. The interstate shipment or delivery of firearms to nonlicensees is still prohibited.

(2) The licensing requirement for those dealing in ammunition only is eliminated. Ammunition recordkeeping requirements for a firearms licensee are eliminated. Licenses are required of manufacturers and importers of ammunition.

(3) For licensing and other purposes under the Gun Control Act, the term "engaged in the business" is now defined as those who regularly deal in firearms with the "principal objective of livelihood and profit" through the "repetitive purchase and resale of firearms."

(4) There is specific statutory authority allowing licensees to deal in firearms at gun shows located in the State in which their licensed premises are located.

(5) Licensed manufacturers, licensed importers and licensed dealers need only maintain a "bound book" record of disposition of "personal firearms" where the firearm has been kept in the licensee's personal collection for one year after its transfer from the business inventory or otherwise acquired. The requirement for licensees to obtain an ATF Form 4473 covering such sales is eliminated. The sale is otherwise subject only to the requirements imposed on unlicensed persons selling firearms.

(6) Licensed collectors need only maintain a "bound book" record of firearms transactions and the requirement for licensed collectors to obtain an ATF Form 4473 is eliminated.

(7) An inspection warrant is now required to inspect the records and inventory of licensed manufacturers, licensed importers and licensed dealers except for a criminal investigation of a person other than the licensee, one annual inspection, or in firearms tracing. An inspection warrant is now required to inspect the records and collection of curio or relic firearms of licensed collectors except for one annual inspection or in firearms tracing.

(8) All persons, whether licensed or not, are prohibited from selling or delivering firearms to those persons specifically prohibited from shipping, transporting, receiving or possessing firearms.

(9) Relief from Federal firearms disabilities may be applied for by any proscribed person and the automatic bar to relief is removed for felons whose crimes involved the use of a firearm or other weapon, or whose conviction was for a violation of the Gun Control Act or the National Firearms Act.

(10) Effective May 19, 1986, the possession or transfer of a machine gun is prohibited except for (a) a transfer to or by, or possession by or under the authority of, government entities, or (b) any lawful transfer or lawful possession of a machine gun lawfully possessed before May 19, 1986.

(11) Revised and streamlined license revocation procedures are provided for in view of *de novo* review of the agency action by the United States district courts.

(12) No person may manufacture or import armor piercing ammunition and no manufacturer or importer may sell or deliver such ammunition except:

(a) For the use of the United States or any department or agency thereof or any State or any department, agency or political subdivision thereof;

(b) For the purpose of exportation; or

(c) For the purposes of testing or experimentation as authorized by the Director.

(13) Armor piercing ammunition may only be manufactured, imported, sold or delivered by licensed manufacturers and importers. Such licenses have a fee of $1,000 per year.

(14) Licensed importers and licensed manufacturers must mark all armor piercing projectiles and packages containing such projectiles for distribution.

(15) The Director may, after notice and opportunity for hearing, revoke the license of a licensed dealer who willfully transfers armor piercing ammunition. The Director must furnish information to each licensed dealer defining which projectiles are considered armor piercing ammunition. Provision is made for dealers to dispose of existing inventories of armor piercing ammunition to governmental entities only.

(16) Recordkeeping provisions are provided for all armor piercing ammunition dispositions.

(17) Procedures are established for approval to receive armor piercing ammunition for testing or experimentation.

(18) The dollar amounts for seized property and carriers are increased to conform to the Tax Reform Act of 1986 and the Trade and Tariff Act of 1984.

Notice of Proposed Rulemaking

On October 29, 1986, the Bureau published a notice of proposed rulemaking, Notice No. 609, cross-referenced to Temporary Rule T.D. ATF-241 (51 FR 39612, 39635) with a 90-day comment period. This temporary rule related to firearms, ammunition, forfeiture and bond amounts. The original 90-day comment period was extended an additional 60 days by Notice No. 618 (52 FR 2865, Jan. 28, 1987) and Notice No. 624 (52 FR 6006, Feb. 27, 1987). On January 16, 1987, the Bureau published a notice of proposed rulemaking, Notice No. 616, cross-referenced to Temporary Rule T.D. ATF-247, relating to armor piercing ammunition (52 FR 2048, 2053).

Comments Received

During the comment period on T.D. ATF-241, 1510 written comments with 2583 additional signatures were received. Comments were received from two United States Senators with one additional Senator signing, eight members of the House of Representatives, two firearms licensee associations, five other firearms interest groups, a manufacturer's association, a law enforcement association, and a medical interest group. In addition, there were 13 sporting use firearms

associations, a firearms collectors association and 44 comments from persons identifying themselves as licensees. During the comment period on T.D. ATF-247, 42 comments were received with three additional signatures. The comments were from two firearms interest groups, a medical interest group, a sporting use firearms association and four persons identifying themselves as licensees.

General

Several comments on the temporary regulations in Parts 178 and 179 applied to numerous sections of the regulations. The comment was made that, based on an amendment to 18 U.S.C. 926 by Pub. L. 99-308, the regulations should not merely repeat a statutory provision and should be limited to implementing requirements where expressly authorized by statute. Repeating statutory provisions in the regulations is not contrary to the statute and is often helpful to the public in understanding and interpreting the regulations. For example, repeating the statutory definition of "firearm" in the regulations informs the public what is subject to regulation under Parts 178 and 179. With respect to numerous sections of the temporary regulations, the comment was also made that the requirement for executing various ATF forms and letter applications under the penalties of perjury be eliminated. The stated reason for the comment was that the requirement unlawfully created a criminal offense by regulation that is unsupported by statute. The requirement has a basis in law, specifically, 18 U.S.C. 1746, and thus has been retained. An objection was made to the promulgation of regulations under Part 179 implementing any section of 26 U.S.C. Chapter 53 unless that section expressly authorizes the Secretary to prescribe regulations. This comment fails to recognize that 26 U.S.C. 7805(a) authorizes the Secretary to issue all needful rules and regulations for the enforcement of Title 26 U.S.C.

Summary of Proposed Regulations, Comments, and Changes Pursuant to Part 178

Definitions

Armor Piercing Ammunition.

It was suggested that the definition be expanded to state the specific types of projectiles or projectile cores covered by the definition, the types that may be exempted from regulation because they are primarily intended for sporting or industrial purposes, and the standards used to determine these types. It was further suggested that the definition be revised to remove shotgun ammunition from its scope. The definition was not changed in the final rule because it provides adequate notice of those projectiles covered by the definition, as well as those that may be exempted from regulation. Also, § 178.99(e) provides for the Director furnishing each licensed dealer information defining those projectiles considered to be armor piercing. With respect to shotgun ammunition, the definition correctly recognizes that shotgun ammunition that may be used in handguns would constitute armor piercing ammunition if it otherwise meets the definition.

Business Premises.

The most frequent comment related to the definition of the term "Business premises." The concern expressed was that the temporary regulations disqualified private residences as a business premises for licensing purposes by requiring that they be open to the public. The requirement that private residences be "open to the public" for licensing purposes has existed since 1968 and was not changed by the temporary regulations. The only change in the definition was to delete a reference to dealing in ammunition which no longer requires a Federal firearms license. Because the amendments to the law did not otherwise affect the definition, the definition in the temporary regulations is appropriate. Moreover, it has been the consistent position of ATF that "open to the public" means that a residence need only be open to that segment of the public the business is designed to serve.

The suggestion was also made that the regulation should include a statement that persons acquiring firearms for personal use should not be considered to be "engaged in the business" and having a business premises. This suggestion was not adopted because the temporary regulations made it clear that a person making occasional sales or purchases of firearms for the enhancement or disposition of a personal firearms collection does not, under these circumstances, have a business premises subject to licensing.

The comment was also made that the definition include a statement that a private dwelling located in an area where business activity is prohibited by a zoning ordinance shall not be recognized as a "business premises" for Part 178 purposes. This change could not be made because compliance with zoning ordinances and other State and local requirements is not a criterion for licensing of a premises under the Act.

Crime Punishable By Imprisonment For a Term Exceeding 1 Year.

An objection was made to the inclusion in the definition of this term the phrase "unless the person is prohibited by the law of the jurisdiction in which the proceedings were held from possessing firearms." The phrase is retained in the final rule since it comports with legislative intent that a person convicted of a crime punishable by imprisonment for a term exceeding one year should continue to have Federal firearms disabilities unless the person's rights to receive and possess firearms have been restored by the jurisdiction where the conviction occurred. In accord with the legislative intent, the word "receiving" was added to the phrase.

An objection was also made to the inclusion of foreign offenses within the definition of the term. The final rule retains the reference to these offenses because the Act imposes Federal firearms disabilities on persons convicted of a crime punishable by imprisonment for a term exceeding 1 year "in any court," which term has been held by the courts to include foreign, as well as Federal and State, courts.

Dealer.

A comment was made that the last sentence of the definition of the term "dealer" should be stricken as going beyond the statutory definition. This sentence provides that the term includes any person who engages in a firearms dealing business on a part-time basis, and, thus, makes it clear such person must have a Federal firearms license to conduct such business. The final rule retains the sentence since it comports with legislative intent as expressed in committee reports.

Engaged in the Business.

The suggestion was made that the definition list examples illustrating when a license is required. No examples have been added since the definition adequately addresses this concern by expressly delineating the activity requiring licensing from that of a firearms collector not subject to licensing.

Handgun.

An objection was made to this definition on the basis that it is overly broad in its application of the term for all purposes under Part 178. It was suggested that the term be narrowed to apply only to the classification of armor piercing ammunition under section 921(a)(17)(B) of the Act. It is appropriate for the regulations to contain a handgun definition for purposes of Part 178

generally. As written, the final rule utilizes the term "handgun", not only as it relates to armor piercing ammunition, but to the importation of barrels for nonsporting handguns as well. Consequently, the definition of handgun has been retained but revised to eliminate that portion of the definition referring to a combination of handgun parts. The deleted language serves no purpose with respect to a classification of armor piercing ammunition or the importability of firearm barrels.

Also, the suggestion that the term be modified to expressly exclude large pistols, which although designed to be fired by a single hand, are commonly fired by 2 hands and firearms designed to be fired from the shoulder was not adopted. Excluding such pistols from the definition would be contrary to Section 10 of Pub. L. 99–408, which covers firearms "designed" to be fired by the use of a single hand. The regulation as written clearly excludes firearms designed to be fired from the shoulder.

Pistols and Revolvers.

Comments were made concerning the definitions of the terms "pistol" and "revolver", stating that they are technically flawed and proposing alternative definitions. The alternate definitions were not adopted since they are overly broad and could be interpreted to include some weapons other than pistols and revolvers. However, the definitions of "pistol" and "revolver" were changed pursuant to comment by deleting the word "small" before the word "projectile." (A corresponding change was also made to these definitions in Part 179.)

State of Residence.

Comments received on the definition of the term "State of residence" suggested that the term provide that a "State of residence" includes a State *or States* in which an individual resides; that the word "sojourn" be deleted from the regulation because it is an incorrect usage of the term; and that additional examples of persons acquiring a State of residence for Part 178 purposes be shown. The first suggestion was not adopted since the language could be erroneously interpreted to mean that a person could at the same time have more than one State of residence. The second comment was adopted and the word "sojourn" changed to "stay." We have also added several suggested examples of persons acquiring a State of residence to cover members of the Armed Forces and persons having homes in a State where weekends are spent.

Other Definitions.

The following additional comments on the definitions were received and the suggested changes were adopted. In the first sentence of the definition of "Curios and relics", the language "is associated with" was added after the words "quality other than." This language was inadvertently omitted from the definition in the temporary regulations.

A definition of the term "manufacture" has been added to § 178.11 which is consistent with the definition of the term "make" in Part 179. In addition, the definition of "felony" is removed in the final rule because the term is no longer used in the regulations.

Administrative and Miscellaneous Provisions

Forms

A comment was made that § 178.21 be revised to state that any form prescribed by the Director shall contain, in the headings or pertaining to the form, the statutory language of the Act authorizing the form. There is no requirement to place such information on forms, and the comment was not adopted. OMB review and approval of ATF forms satisfies legal requirements.

Alternate Methods and Emergency Variations

The comment was made that § 178.22 (and 27 CFR 179.26), providing for the Director's approval of emergency variations in lieu of the methods and procedures prescribed by regulation, be revised to delete the provision that an emergency variation automatically terminates if the licensee fails to comply with the terms of the variance. The commenter believes this provision unjust to the licensee. The comment was not adopted because the regulation provides for automatic termination of the variance when the licensee fails to comply with the conditions of the variance "in good faith."

It was also suggested that regulations be changed to provide for submission of variance requests directly to the Director, rather than to the regional director (compliance). According to the commenter, this change would save time. Because of the need for coordination between the Director and the regional director (compliance) with respect to any request for variance, this change would not expedite variance requests and was not adopted.

Right of Entry and Examination

The comment was made that not all firearms on the premises of licensed importers, manufacturers, and dealers should be subject to examination during a routine compliance examination, but only business inventory firearms. With respect to licensed collectors, it was suggested that the regulations be clarified to reflect that the premises of a licensed collector is not a business premises, that a licensed collector technically does not maintain "business hours" and that an inspection of the firearms of a licensed collector is limited to firearms curios or relics and should not extend to other personal firearms.

It was also suggested that, with respect to warrantless inspections for the purpose of determining the disposition of firearms in the course of a criminal investigation, the regulations should describe these investigations as "bona fide" criminal investigations as stated in section 923(g)(1) of the Act. These comments have been adopted and § 178.23 modified to reflect these changes. However, proposals were not adopted that warrantless inspections to determine the disposition of firearms in aid of a criminal investigation be conditioned on establishing certain specific facts about the criminal investigation and the completion of a form reflecting these facts. As a practical matter, some of this information would not be available for a timely inspection. Adoption of the proposal may also result in an unwarranted disclosure of information pertaining to a pending criminal investigation.

State Laws and Published Ordinances

The Act requires the Secretary to publish in the **Federal Register** a "list" of published laws of political subdivisions of the States which are determined to be relevant to enforcement of the Act. The Act also provides that the Secretary shall publish a "compilation" of State laws and published ordinances of which licensees are presumed to have knowledge pursuant to the Act. A suggestion was made to change the description of the publication as a "list" to a "compilation." This comment was adopted.

It was also suggested that the regulations be revised to require ATF to provide a complete list or compilation of such laws annually to all licensees whether or not such laws have been amended. Because section 110 of Pub. L. 99–308 expressly provides for furnishing amendments of these laws to licensees, the regulation was not revised. In other words, if the licensee has been furnished with a complete set of these laws and ordinances, ATF is required to furnish the licensee only amendments of these laws and ordinances.

Disclosure of Information

An objection was made to the provision in § 178.25 that the regional director (compliance) may, upon request, provide any Federal, State or local law enforcement agency any information contained in the records required to be maintained by the Act or this part. The person commenting interprets the Act to restrict ATF's disclosure to information pertaining to the identification of persons prohibited from purchasing firearms. The objection is based upon a misinterpretation of the Act, specifically section 923(g)(1)(D), and therefore was not adopted.

Curio or Relic Determination

Section 178.26 provides that a licensed collector may submit a request to the Director for a determination whether a particular firearm is a curio or relic. Pursuant to comment, this section was revised to permit any person to make such request.

Out-of-State Acquisition of Firearms by Nonlicensees

Section 178.29 provides that nonlicensees may not lawfully transport into or receive in their State of residence firearms obtained outside of that State, but also sets out the exceptions to this prohibition. The temporary regulations inadvertently omitted the exception for a firearm loaned or rented to a person for temporary use for lawful sporting purposes. Therefore, a new paragraph (c) has been added to provide for this exception. Also, an erroneous citation was corrected in paragraph (b) by changing "§ 178.97" to "§ 178.96(c)."

Transportation of Destructive Devices and Certain Firearms

The regulations in § 178.28 require the Director's authorization for persons other than licensees to transport these weapons in interstate commerce and require that the person seeking authorization provide, among other things, information that the transportation or possession of the weapon is not inconsistent with the laws of the place of destination. A comment was made that this information be dispensed with in connection with obtaining such authorization. This comment was not adopted since the information is necessary to determine whether the transportation meets statutory requirements, that is, the transportation would be "consistent with public safety and necessity" as required by 18 U.S.C. 922(a)(4).

Delivery by Common or Contract Carrier

It was suggested that § 178.31 be revised to delete the requirement for passengers, who carry firearms aboard carriers in carry-on baggage, to give notice to the carrier that firearms are being transported. This comment was not adopted because the requirement is imposed by statute, 18 U.S.C. 922(e). As held by the courts, the notice requirement applies whether a firearm is contained in a passenger's carry-on baggage or checked baggage.

Prohibited Shipment, Transportation, Possession, or Receipt of Firearms and Ammunition by Certain Persons

The regulation in § 178.32(a)(1) describes the disabilities imposed by law on persons convicted of a crime punishable by imprisonment for a term exceeding 1 year. It was suggested that the language "in any court" be added after the word "convicted." The suggested language has been incorporated into the regulation because it conforms the regulation to the provisions of law, 18 U.S.C. 922(g), and makes it clear that disabling convictions may occur in foreign courts as well as Federal and State courts.

Stolen Firearms and Ammunition

The regulation in § 178.33 generally covers the statutory prohibition against the interstate transportation and receipt of stolen firearms and ammunition. Pursuant to the suggestion of one commenter, the regulation was revised to more fully state the statutory prohibitions with respect to stolen firearms and ammunition. Specifically, the regulation has been expanded to cover the pledge or acceptance as security for a loan of any stolen firearm or ammunition.

Transportation of Firearms

At the suggestion of one commenter, the final rule includes for informational purposes the provisions of section 926A of the Act which provides for a Federal right to transport an unloaded, inaccessable firearm and preempts State and local laws to the contrary if the possession and carrying of the firearm comply with the laws applicable at the origin and destination of the journey. (See § 178.38.)

Licenses

With respect to licensing, a number of comments have been incorporated into the regulations, including (1) the deletion of the statement in § 178.41(a) that licensing of firearms collectors authorizes "privileges granted by the Act"; (2) expanding § 178.43 to expressly provide that license fees be refunded to an applicant whose application is withdrawn prior to being acted upon; (3) providing in § 178.47(a) that the regional director (compliance) "shall", rather than "may", issue a license to a qualified applicant; (4) correcting a statement in § 178.47(b)(2) concerning the licensing of business entities having no individual under Federal firearms disabilities in a position directing the management and policies of an entity ("management or policies" has been changed to "management and policies" to comport with statutory provisions); and (5) changing "§ 178.82" to "§ 178.78" in § 178.47(c) to correct an erroneous citation to regulations.

However, a suggestion was not adopted to delete the second sentence of § 178.45 which provides that the regional director (compliance) may require an applicant for license renewal to file an original license application form, ATF Form 7, as well as a renewal application form, ATF Form 8. Contrary to the comment, there are occasions when the ATF Form 7 would contain information necessary to determine eligibility for license renewal that would not be shown on ATF Form 8, *e.g.*, where there has been a change of control over a licensee. Nor was a suggestion adopted that the regulation specify each item of information required by Forms 7 and 8 to be furnished by a license applicant. It is appropriate that the regulation require an applicant to provide the information called for by the forms. This in no way circumvents the provision in section 923(a) of the Act that a license application shall contain only that information necessary to determine eligibility for licensing. Furthermore, the regulations were not revised to incorporate a comment that licenses should not be issued to persons unless they have commenced a firearms business. Section 923(d)(1)(E) of the Act mandates the issuance of a license to a person who, among other things, has a business premises from which the applicant "intends" to conduct business within a reasonable period of time, although the person may not have commenced business at the time the license application is filed. Moreover, the Act prohibits engaging in a firearms business without a Federal license.

License Proceedings

The comment was made to allow additional time within which to request an administrative hearing on a notice of denial of a license application or notice of revocation and to extend the time for the hearing subsequent to the applicant

or licensee being notified of the hearing. Other procedural changes suggested included amending the regulations to further clarify the reasons for denial or revocation, giving additional time elements in the administrative process, permitting the applicant or licensee to file a brief subsequent to receipt of the hearing officer's findings and recommendations, establishing rights of discovery of information in the possession of the Government, and providing for hearings before an administrative law judge. These suggested changes and additional procedures were not adopted because they would unnecessarily delay the administrative process and because they are not required by law. Current regulations adequately provide for informing the applicant of the factual and legal matters which are the basis of the administrative action. Moreover, the person has the right within 60 days after receipt of the final notice of denial or revocation to file a petition for review of the administrative decision in the U.S. district court which may hold a *de novo* hearing.

The comment was made that § 178.76 should be changed to eliminate the requirement that the representative of an applicant or licensee be recognized to practice before the Bureau of Alcohol, Tobacco and Firearms as provided in 31 CFR Part 8. The legal authority for the requirement was questioned by those commenting. We have retained the requirement in the regulations because 31 U.S.C. 330 provides that the Secretary of the Treasury may adopt rules of practice before the Department and 31 CFR Part 8 implements the statutory authority.

The suggestion was also made to change § 178.78 to provide that the filing of a petition in the district court to review an administrative license revocation shall postpone the effective date of revocation of a license until a final judgment in the courts. Because the statute, 18 U.S.C. 923(f)(3), providing for judicial review does not provide for a stay of revocation pending action by the district court or appellate review of the courts, the comment was not adopted. However, as the regulation provides, the regional director (compliance) may postpone the effective date of revocation in the interest of justice. In addition, a reviewing court may postpone the effective date of agency action pursuant to 5 U.S.C. 705.

Several changes were made in the final rule pursuant to comments. In § 178.71, the regulation stated that the regional director (compliance), believing that an applicant is not "eligible" to receive a license, may issue a notice of denial. The word "eligible" has been replaced with "qualified." In § 178.73, the regulation stated that the regional director (compliance), believing that a licensee has violated any provision of the Act, may issue a notice of license revocation. This section has been revised to expressly require that the notice of revocation be based only upon a willful violation.

This section has also been revised to substitute "has reason to believe" for "believes" in connection with the regional director (compliance) issuing a notice of revocation. This change restores language which was inadvertently altered by the temporary regulations. The regulation in § 178.75 provided for service on the applicant or licensee of all notices and other "formal" documents. The word "formal" has been deleted. An obsolete citation to § 178.75(b) has been removed from § 178.76.

Conduct of Business

Identification of Firearms and Armor Piercing Ammunition.

A number of commenters expressed a concern that a strict interpretation of the identification requirements would tend to lower the value of imported curio and relic firearms and suggested a number of alternative language changes. ATF has interpreted current regulations to permit a licensed importer to adopt the serial number appearing on a foreign firearm if it does not duplicate the number on any other firearm imported by the licensee. Furthermore, the new regulation in § 178.22(a), authorizing ATF to accept alternate methods or procedures in lieu of the requirements of the regulations, is available to permit variances in identifying firearms and other requirements. Therefore, the suggested changes were not adopted. A cross reference to regulations in 27 CFR 179.102 which also contains identification requirements was included.

Authorized Operations by a Licensed Collector

The comment was made that licensed collectors should be provided more information in § 178.93 with regard to activities involving armor piercing ammunition. This comment was adopted and a sentence was added to explain that a collector's license is unnecessary to collect ammunition and that a licensed collector is not precluded by the Act from receiving or disposing of armor piercing ammunition.

Sales or Deliveries Between Licensees

The temporary regulations provided that a licensee returning a firearm to another licensee need not obtain a certified copy of the transferee's license prior to the return or transfer. Pursuant to a comment, the regulation in § 178.94 was expanded to eliminate the certified copy when the firearm is transferred to a licensee for return to a third licensee.

Out-of-State and Mail Order Sales

At the suggestion of a commenter, the language in section § 178.96(a) was simplified. Several commenters suggested that the first sentence of § 178.96(c) be revised by deleting the words "at the licensee's premises." This change was not made because it would erroneously suggest that licensed importers, manufacturers and dealers could lawfully sell firearms at unlicensed locations. Such licensees may only sell firearms from their licensed premises or at a gun show held in their State in accordance with § 178.100.

Comments were also received to the effect that the regulations should state that delivery of a rifle or shotgun sold to an out-of-State unlicensed individual could be accomplished by an interstate shipment to the purchaser. The Act does not allow the interstate shipment or delivery of rifles and shotguns by licensees to nonlicensees. While 18 U.S.C. 922(b)(3) as amended permits licensees to sell rifles and shotguns to out-of-State unlicensed individuals in compliance with State and local laws, 18 U.S.C. 922(a)(2) still prohibits licensees from transporting or delivering firearms interstate to nonlicensees.

A further comment objected to the provision in paragraph (c) which restricts interstate sales of rifles and shotguns by licensed collectors to nonlicensees to only those that are curios or relics. This restriction is retained in the final rule since the license issued to a collector covers only transactions in curios or relics. With respect to firearms other than curios or relics, a licensed collector is in the same position as a nonlicensee who, among other things, may not lawfully dispose of firearms to other nonlicensees residing out-of-State.

Sales or Deliveries of Destructive Devices and Certain Firearms

Several commenters suggested that the requirement for nonlicensees to furnish a sworn statement showing a reasonable necessity to purchase from licensees destructive devices, machine guns, and certain other weapons as described in § 178.98 be eliminated. This

comment was not adopted since the regulation implements 18 U.S.C. 922(b)(4) which makes it unlawful for a Federal firearms licensee to sell or deliver such weapons to a nonlicensee except as specifically authorized by the Secretary consistent with public safety and necessity.

Other commenters believed that the requirement is inadequate and should be expanded to require an agency determination of "reasonable necessity" pursuant to established criteria. In view of the requirements imposed by Part 179 on transactions in these types of weapons, the suggestion was not adopted.

Transfer of Armor Piercing Ammunition by Licensed Dealers

The suggestion was made that § 178.99(e) be revised to require that, in any proceeding to revoke the license of a dealer who violates the Act by willfully transferring armor piercing ammunition, the Government prove that the Director had furnished the dealer information defining what projectiles are considered to be armor piercing. While the Director is required by the Act to furnish such information to licensed dealers, the Government would not be precluded from revoking the license of a dealer who had not received the information if it could be established by other available evidence that the dealer willfully transferred such ammunition in violation of the Act. Consequently, the comment was not adopted.

Conduct of Business Away From Licensed Premises

The comment was made that the regulation in § 178.100 is invalid in that it restricts the "temporary location" at which a licensee's firearms business may be conducted to only gun shows. Furthermore, those commenting believe that the term "gun show" is defined too narrowly by the regulation. Pursuant to those comments, the regulation has been revised in the final rule to more closely conform to section 923(j) of the Act which permits licensees to conduct business at temporary locations away from their licensed premises if such locations are the location for a gun show or event sponsored by any national, State, or local organization devoted to the collection, competitive use, or other sporting use of firearms. Specifically, the regulations have been revised to allow the conduct of business at such "events."

Comments were also made that the regulation should be worded to allow out-of-State licensees displaying guns at a gun show to transfer guns to resident licensees. While it is true that licensees are not confined to their licensed premises when acquiring a firearm, they may not lawfully consummate sales of firearms at an unlicensed location other than a gun show located in the same State specified on their license. The Act expressly restricts licensees' firearms sales at gun shows to those shows held in the State wherein the licensed premises is located (18 U.S.C. 923(j)).

The comment was also made that § 178.100(c) be modified to the effect that records or inventory examinations are not authorized at any location other than that specified on the license. This comment was not adopted since the Act expressly provides for the inspection of licensee records relating to firearms held or disposed of at gun shows and firearms held or disposed of at such locations.

A comment that § 178.100(c) be revised to more clearly describe the records to be maintained by a licensee engaging in business at a gunshow was not adopted. Section 178.100(c), together with the regulations in Subpart H, sufficiently explain the recordkeeping requirements to be met by licensees engaging in business at gun shows. A licensed dealer receiving a firearm at a gun show has 7 days to record the acquisition in the licensee's bound record if a commercial record of the transaction is kept. A licensed dealer selling or disposing of a firearm has 7 days to record the disposition in the licensee's bound record if Form 4473 is obtained by the dealer and is readily available for inspection in the case of a sale to a nonlicensee, or a commercial record of the transaction is readily available for inspection in the case of a sale to another licensee. Therefore, a licensed dealer engaging in business at a gun show need not take the bound record to the show if these requirements are met. A licensed dealer selling or disposing of a firearm to a nonlicensee at a gun show must, while the licensee is attending the show, maintain the Form 4473 completed in connection with the transaction at the show.

Importation

Importation By Licensees and Members of the U.S. Armed Forces

With respect to importation by licensees, it was suggested that several sections of the regulations be revised to remove the importation restrictions on firearms barrels for other than nonsporting firearms or handguns. The temporary regulations proscribed the importation of barrels for all nonimportable firearms. Those commenting on this point were of the view that the new statutory prohibition on the importation of barrels in 18 U.S.C. 925(d)(3) was not intended to apply to barrels of all nonimportable firearms, but was intended by the Congress to apply only to nonsporting firearms or handguns. In accord with the suggestion several changes were made in the regulations to preclude the importation of barrels only if they are for nonsporting handguns. In order to enforce the prohibition against the importation of such barrels, the regulations will continue to require a permit to import all firearms barrels.

The regulations in §§ 178.112, 178.113 and 178.114 were also changed pursuant to suggestions that those importing firearms and ammunition establish why these items are particularly suitable for or readily adaptable to sporting purposes without a statement that the importer "believes" this to be the case.

Several technical errors in the temporary regulations have also been corrected in the final rule. These include restoring the language in § 178.112 precluding the importation of surplus military firearms and nonsporting ammunition and deleting an erroneous statement in § 178.113 that unlicensed persons may not engage in the business of importing firearm barrels. Moreover, the temporary regulations did not prescribe the procedure for nonlicensees to import firearm barrels. Section § 178.113a has been included in the final rule to provide such procedures. This new section provides for the issuance of permits to nonlicensees importing firearm barrels under procedures similar to those applicable to licensees under §§ 178.112 and 178.113.

Several comments related to the administrative criteria, or so-called "factoring criteria", for determining whether handguns are importable as firearms which are particularly suitable for or readily adaptable to sporting purposes. Some commenters suggested eliminating the criteria and replacing them with more clear and precise criteria, although no alternative criteria were suggested. Others suggested publishing the existing criteria in the regulations. These comments were not adopted. The existing criteria were established in the manner contemplated by the Congress in 1968 when enacting the Act. The Secretary established a council comprised of representatives of the firearms industry, including firearms importers, the sporting fraternity, and firearms research organizations. The administrative criteria devised by the council are detailed, clear and precise. The criteria are available on an ATF form and are well known by the

firearms industry. Further, the factoring criteria have worked well to preclude the importation of nonsporting handguns.

Exempt Importation

Section 178.115(a) provides that a firearm or ammunition may be brought into the United States by any person who can establish to the satisfaction of Customs that it was previously taken out of the United States by such person. The regulation states that a bill of sale or other commercial document showing a transfer of the firearm or ammunition in the United States to the person may be used to establish that it was taken out of the United States by the person. A comment suggested that the regulation be revised to allow an affidavit or sworn statement by the person, in lieu of a bill of sale or other commercial document, as the requisite proof. The current regulation does not require a bill of sale or other commercial document as the exclusive proof that the firearm or ammunition was taken out of the United States by the importer. As written, the regulation would allow proof of this fact by other documentation satisfactory to Customs, including a Customs Form 4457 completed before the person departed the United States with the firearm or ammunition. Therefore, it was unnecessary to adopt this comment.

A comment concerning paragraph (b), which provides for the importation of firearms, ammunition, and firearm barrels by governmental entities, suggested that firearm barrels be deleted from the regulation as unnecessary since barrel importability depends upon the importability of the firearm for which the barrel is intended. Because barrels for nonsporting handguns are generally prohibited from importation, the regulation appropriately provides that importation of firearm barrels by governmental entities is exempt from regulation.

Conditional Importation

The comment was made that the term "firearm barrel" should be deleted from § 178.116, which permits the conditional importation of firearms, ammunition, and firearm barrels to determine whether these items may lawfully be imported. Since the burden of establishing the importability of firearm barrels is upon the importer, it is advantageous and fair to the importer to permit the conditional importation of barrels to determine whether they meet the importation criteria. Otherwise, where doubt existed with respect to importability, an application to import the barrels would be disapproved. Consequently, this suggested change in the regulations was not made.

Records

Records Maintained by Importers and Manufacturers

The comment was made to delete information as to the gauge of shotgun ammunition from the records required to be kept for armor piercing ammunition. The belief was expressed that "armor piercing ammunition" does not cover shotgun ammunition, but rather pertains to handgun ammunition only. This comment was not adopted since the armor piercing ammunition definition in the Act covers projectiles or projectile cores that "may be used in a handgun" and, therefore, includes ammunition interchangeable between handguns and longguns. Since there are handguns which will chamber and fire shotgun ammunition, the information as to the gauge of ammunition is necessary to describe armor piercing shotgun ammunition in the required records.

Firearms Transaction Record

Section 178.124 contains the requirement for licensees to record their dispositions of firearms to nonlicensees on Forms 4473, except when firearms received "for the sole purpose of repair or customizing" are returned. It was suggested that based upon section 922(a)(2)(A) of the Act and Rev. Rul. 69–248, 1969–1 C.B. 360, any return of a firearm to a person or the person's agent be excepted from the Form 4473 requirement. Section 922(a)(2)(A) provides for the lawful interstate shipment or transportation of firearms being returned by licensees to nonlicensees and the revenue ruling held that the Act does not preclude a licensee from shipping firearms to its own employees interstate in connection with the licensee's business. Neither the statute nor the ruling relate to the recordkeeping requirements imposed on licensees when selling or disposing of firearms. Consequently, the comment was not adopted. Adoption of the proposal could facilitate the return of a firearm to a prohibited person or underaged person.

Record of Receipt and Disposition

With respect to paragraph (e) of § 178.125, it was suggested that additional language be added to require licensed dealers to record their receipt and disposition of firearms which are "business inventory" rather than those comprising a "personal collection" of firearms. No change was made in this section as the temporary regulations added a new section, § 178.125a, covering licensees' acquisition and disposition of personal firearms.

It was also suggested that paragraph (f) of § 178.125, relating to the receipt and disposition of firearms by licensed collectors, be revised to require licensed collectors to record only their interstate transactions in curio or relic firearms. This suggested change was not made because sections 922(b)(5) and 923(g) of the Act imposing recordkeeping requirements require licensed collectors to record their acquisition and disposition of all curio or relic firearms whether or not the transactions occurred in interstate commerce.

Further comment was made that the requirement imposed on licensed collectors to record their inventory of curio or relic firearms before commencing licensed operations should be deleted. This requirement is necessary to ensure that those curio or relic firearms are properly recorded when later disposed of. Paragraphs (e) and (f), including the recordkeeping formats, have been changed by removing the description of firearms by "type of action." The "type of action" has been replaced by a requirement to record the "type" of firearm. Recording the type of action of a firearm has not served any purpose under Part 178.

Personal Firearms Collection

The comment was made that new § 178.125a covering sales by licensed dealers, importers, and manufacturers of "personal" firearms should be replaced. The change was not adopted as the suggested language would not reflect the dates of the transactions which are necessary to substantiate the statutory requirement that a licensee hold a personal firearm for a period of one year after receiving it prior to disposing of it as personal property rather than business inventory. Furthermore, the suggested language would not provide for verification of the identity of the purchaser of the personal firearm as contemplated by the Act. However, the section has been changed by removing the description of firearms by "type of action." For reasons previously stated, the "type of action" has been replaced by a requirement to record the "type" of firearm.

Reporting Multiple Sales or Other Disposition of Pistols and Revolvers

Section 178.126a has been revised to relax the requirement that licensees report to ATF their multiple sales and other dispositions of pistols and revolvers to unlicensed persons. Specifically, an exception is made where firearms are returned by

licensees to their owners, *e.g.*, the redemption of pawned firearms.

Discontinuance of Business

Section 178.127 provides that upon the discontinuance of a firearms or ammunition business the records kept pursuant to Subpart H shall be delivered to the ATF Firearms Records Repository. At the suggestion of a commenter, this section has been revised to permit the delivery of the records to any local ATF office or to the regional director (compliance), as well as to the repository.

Record Retention

Comments were received which objected to the requirement that Forms 4473 be retained for 20 years by licensed firearms importers, manufacturers, and dealers. A 3-year retention period was suggested in place of the 20-year period. This comment was based upon the regulations implementing The Paperwork Reduction Act which provide that OMB will not approve a retention period exceeding 3 years unless the period is necessary to satisfy statutory requirements or other substantial need is demonstrated. Other comments stated that the form should be eliminated and merged into the bound book record of firearms acquisitions and dispositions. OMB has approved the record retention period in the regulations and, therefore, no change was made in § 178.129. Contrary to the comments made on this section, Forms 4473 implement specific statutory requirements designed to ensure that firearms are distributed by licensees only to those qualified to receive them under the Act. The 20-year retention period is necessary to assist State and local law enforcement officials in the enforcement of their own laws through the tracing of firearms involved in crime as well as providing similar assistance to Federal law enforcement agencies.

Exemptions, Seizures, and Forfeitures

Effect of Pardon and Expunction of Convictions

Pursuant to comment, § 178.142(b) was revised to include restorations of civil rights among the various means by which a person convicted of a crime punishable by imprisonment for a term exceeding one year may have Federal firearms disabilities removed. A comment that paragraph (b)(2) of § 178.142 be deleted in its entirety was not adopted. This paragraph provides that pardons, expunctions, or other proceedings with respect to a conviction do not remove Federal firearms disabilities if the person is not restored to firearms rights in the jurisdiction where such proceeding occurred. The paragraph correctly interprets section 921(a)(20), which provides that State law, including State firearms restorations, be determinitive of whether a convicted person should continue to be treated as convicted for Federal purposes. If the convicted person is still under State firearms disabilities with respect to the possession or receipt of firearms, the person should be treated as having Federal firearms disabilities. However, the reference to State law concerning shipment and transportation of firearms was deleted from paragraph (b)(2).

Relief From Disabilities Under the Act

One commenter suggested that paragraph (c)(2) of § 178.144 be revised to delete the requirement that a relief applicant, having firearms disabilities for reasons other than an adjudication of mental defectiveness or a commitment to a mental institution, furnish written consent to examine the applicant's medical records. This requirement is retained in the final rule because the mental condition of any applicant may bear upon the granting of relief, regardless of whether the applicant was adjudicated mentally defective or committed to a mental institution.

A comment concerning paragraph (c)(5) that a person having such disabilities should not be disqualified from relief even though the person has not been restored to mental competency and all rights which were lost as a result of the commitment or adjudication restored was not adopted. In the case of such persons, the statutory criteria would preclude the granting of relief.

Another commenter suggested that § 178.144(c)(3) be revised by adding a statement that the information required by paragraph (c)(3) be confined to that which is relevant and material to a determination whether relief from Federal firearms disabilities should be granted. The paragraph requires that an applicant for relief from disabilities incurred by reason of an indictment submit a copy of the indictment with the application. The suggestion was not adopted because a complete copy of the indictment is necessary to determine whether the person has Federal disabilities.

Pursuant to another comment, we have included in paragraph (d) some of the administrative criteria employed by the Director in determining whether relief from disabilities should be granted.

Return of Firearm

For informational purposes, a reference to § 178.124(a) was added to § 178.147. This change informs a licensee of the need to obtain Forms 4473 when certain firearms are returned.

Armor Piercing Ammunition Intended for Sporting or Industrial Purposes

In the temporary regulations, § 178.148 provided procedures for the Director to exempt armor piercing ammunition from the recordkeeping requirements if the ammunition was found to be primarily intended for sporting or industrial purposes. A comment pointed out that the definition of armor piercing ammunition in the Act provides that an exemption granted pursuant to this section exempts such ammunition from all regulatory controls imposed on armor piercing ammunition and not just the recordkeeping requirements. The section was changed to reflect the comment.

Pursuant to comment, the final rule more fully describes the ammunition to be exempted by expressly including charges used in oil and gas well perforating devices.

Exportation

Section 178.171 has been rewritten to clarify recordkeeping requirements imposed by Part 178 on the exportation of armor piercing ammunition.

Summary of Proposed Regulations, Comments, and Changes Pursuant to Part 179

Definitions

The suggestion was made to add language to the definition of machine gun which would expressly exclude from the definition "semiautomatic" firearms, which by wear, alteration, or elimination of certain parts, may fire more than one shot without manual reloading by a single function of the trigger. The suggested language was not added to the definition because it would exclude machine guns as defined by the Act.

It was also suggested that the term muffler or silencer be defined by an objective standard reflecting a significant reduction in sound level of the firearm to which attached, *i.e.*, a 25% reduction in number of decibels. Because courts have interpreted the term to include any device which is designed as a silencer and which will reduce the sound level of a firearm to any degree, the suggestion was not adopted.

Administrative and Miscellaneous Provisions

Right of Entry and Examination

A comment was made objecting to the regulation in § 179.22 which authorizes ATF officers to enter without a warrant the premises of firearms importers, manufacturers and dealers to examine records and firearms subject to Part 179. The basis of the objection is the absence in 26 U.S.C. Chapter 53 of statutory authority for such inspections and the fact that Public Law No. 99–308 did not provide for these inspections. This comment was not adopted because statutory authority for these entries and examinations are provided for in the Internal Revenue Code of 1986, specifically 26 U.S.C. 7606. Public Law 99–308 did not address and, therefore, did not alter any inspection rights under the Internal Revenue Code.

Tax on Making and Transfer of Firearms

Application to Make

In connection with applications to make firearms, it was suggested that § 179.62 be revised to delete the statement relative to the applicant furnishing his or her social security number, as well as the statement why the applicant intends to make the firearm. The regulation has been revised to adopt these suggestions. However, the FBI fingerprint card which must accompany an individual's application would still require the applicant's social security number.

Identification of Applicant

Numerous commenters objected to the requirement in §§ 179.63 and 179.85 that an application to make or transfer a firearm be accompanied by the certificate of a law enforcement official stating that the official has no information that possession of the firearm by the maker or transferee would be in violation of State or local law or that the maker or transferee would use the firearm for other than lawful purposes. Those commenting stated that the regulations have no statutory or constitutional basis. The requirement has a legal basis and has not been deleted. The requirement has existed in regulations since the National Firearms Act was enacted in 1934, and the Congress in amending and reenacting the Act has not disapproved it. The requirement does not unconstitutionally delegate Federal functions to State officials by mandating that these officials approve or disapprove transactions. On the contrary, these officials have the discretion to execute or not execute the required certifications. A United States district court has upheld the validity of the certification requirement.

The suggestion was also made to expand the list of officials whose certifications would be acceptable under the regulations. Specifically, it was suggested that judges, attorneys, and ATF personnel be specified. This suggestion was not adopted. As currently written, the regulations permit the Director to accept in a particular case the certificate of an official other than those enumerated. Consequently, the Director has accepted the certificate of certain judges having law enforcement functions or criminal jurisdiction and judges having access to criminal records. Therefore, whether or not the certificate of a judge is acceptable depends on the circumstances of the particular case. The certificate of an attorney would not suffice and ATF personnel have not been permitted to make these certifications because of their lack of information about the maker or transferee in his or her community.

Registration and Identification of Firearms

Identification of Firearms

The suggestion was made to clarify § 179.102 relating to the identification of component parts of machine guns and silencers which in and of themselves are subject to regulation as machine guns and silencers. Accordingly, language has been added to permit the Director to authorize alternate means of identifying these component parts pursuant to a letter application of a licensed importer or licensed manufacturer. Thus, a licensee could, for example, be relieved of the requirement to place the required identifying markings on each part of a silencer kit if marking a single component of the kit would be reasonable and would not hinder the effective administration of Part 179. However, the frame or receiver of a machine gun would continue to be subject to the identification requirements.

Registration of Firearms by Certain Governmental Entities

A number of commenters objected to language in § 179.104 limiting the registration of weapons for "official use only" by State and local governmental entities that acquired the weapons by forfeiture or abandonment.

An objection was also made to the restriction placed on any subsequent transfer of these weapons to other governmental entities for official use only. This comment was not adopted. The suggested change would permit the introduction of previously unregistered, contraband weapons into commercial channels in violation of law. The restriction placed on the distribution of these weapons has been upheld by the courts.

Transfer and Possession of Machine Guns

A number of commenters suggested that § 179.105 be changed to allow the transfer of machine guns manufactured after May 19, 1986, to any person if the requirements of Part 179 have been met or to any person authorized or permitted to possess a machine gun by any State or a department, agency, or political subdivision thereof. Permitting the transfer of machine guns to any person pursuant to Part 179 or to any person permitted to possess machine guns by State authorities or State law would fail to recognize the prohibition against the possession and transfer of machine guns in 18 U.S.C. 922(o). Restricting transfers of these firearms to government entities or to qualified dealers as "sales samples" is a reasonable interpretation of section 922(o). Therefore, no change was made in this section.

The comment was also made that paragraph (f) of section 179.105 be expanded to allow qualified manufacturers, importers, and dealers, who go out of business and have in their inventory machine guns manufactured after May 19, 1986, to transfer such firearms to any person if the requirements of this part are met and the person may legally possess machine guns under State law. This suggested change was not adopted because it would violate the prohibition in section 922(o) and place persons in violation of the law.

Importation

Registration of Imported Firearms

The comment was made that paragraph (d) of section 179.112 is too restrictive in requiring that firearms imported for use as sales samples by qualified importers and dealers be "particularly" suitable for use of governmental entities. The suggested change has been incorporated in new paragraph (c) by requiring that these firearms be "suitable or potentially suitable" for use of such entities.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this final rule because it is not required to be

preceded by a notice of proposed rulemaking under 5 U.S.C. 553 or any other law.

Executive Order 12291

In compliance with Executive Order 12291, 46 FR 13193 (1981), ATF has determined that this final rule is not a "major rule" since it will not result in:

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

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

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

Paperwork Reduction Act

The collection of information contained in this final rule have been reviewed and approved by the Office of Management and Budget for review under section 3507 of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35.

Drafting Information

The principal author of this document is Daniel E. Crowley, ATF Specialist, Firearms and Explosives Operations Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 72

Administrative practice and procedure, Authority delegation, Seizures and forfeitures, Surety bonds.

27 CFR Part 178

Administrative practice and procedure, Arms and munitions, Authority delegation, Customs duties and inspection, Exports, Imports, Military personnel, Penalties, Reporting requirements, Research, Seizures and forfeitures, Transportation.

27 CFR Part 179

Administrative practice and procedure, Arms and munitions, Authority delegation, Customs duties and inspection, Exports, Imports, Military personnel, Penalties, Reporting requirements, Research, Seizures and forfeitures, Transportation.

Authority and Issuance

Accordingly, ATF is issuing a final rule to amend Title 27 of the Code of Federal Regulations Parts 72, 178 and 179 as set forth below

PART 72—DISPOSITION OF SEIZED PERSONAL PROPERTY

Paragraph 1. The authority citation for Part 72 continues to read as follows:

Authority: Sec. 8, 53 Stat. 1293, sec. 1, 62 Stat. 761, as amended, sec. 7805, 68A Stat. 917, sec. 921, 82 Stat. 1214; 49 U.S.C. App. 788, 18 U.S.C. 1261, 26 U.S.C. 7805, 18 U.S.C. 926, unless otherwise noted.

* * * * *

Subpart F—Administrative Sale or Disposition of Personal Property

* * * * *

Sec.

72.69 Alternate disposition of seized carriers.

* * * * *

Par. 2–3. Section 72.21 is revised to read as follows:

§ 72.21 Personal property and carriers subject to seizure.

(a) Personal property may be seized by duly authorized ATF officers for forfeiture to the United States when involved, used, or intended to be used, in violation of the laws of the United States which ATF officers are empowered to enforce, including Title 18 U.S.C. Chapters 40 (explosives), 44 (firearms), 59 (liquor traffic), 114 (contraband cigarettes), 229 (liquor); Title 26 U.S.C. Chapters 51 (distilled spirits), 52 (tobacco), 53 (firearms); and Title 27 U.S.C. 206 (liquor). Carriers, as defined in § 72.11, similarly may be seized when used in violation of Title 49 U.S.C. App., Chapter 11 (transportation, et cetera) of contraband firearms or contraband cigarettes.

(b) Any action or proceeding for the forfeiture of firearms or ammunition seized under 18 U.S.C. Chapter 44 shall be commenced within 120 days of such seizure.

(c) Upon acquittal of the owner or possessor, or the dismissal of the criminal charges against such person other than upon motion of the Government prior to trial, firearms or ammunition seized under 18 U.S.C. Chapter 44 shall be returned forthwith to the owner or possessor or to a person delegated by the owner or possessor unless the return of the firearms or ammunition would place the owner or possessor or his delegate in violation of law.

Par. 4. Section 72.22 is amended to change "$10,000.00" or "$2,500.00" to "$100,000.00" wherever it appears in paragraphs (a) (1), (2) and (3) and paragraphs (a)(6) and (b) are revised to read as follows:

§ 72.22 Forfeiture of seized personal property and carriers.

(a) *Administrative forfeiture.* * * *

(6) Any person claiming the personal property or carrier so seized, within the time specified in the notice, may file with the Director a claim stating the interest in the articles or carrier seized, and may execute a bond to the United States, conditioned that, in case of condemnation of the articles or carrier so seized, the obligators shall pay all the costs and expenses of the proceedings to obtain such condemnation. The amount of the cost bond is $2,500.00, unless the seized property is a vehicle, vessel, or aircraft seized for a violation of 49 U.S.C. App., Chapter 11, in which case the cost bond shall be in the amount of $2,500 or ten percent of the value of the claimed property, whichever is lower, but not less than $250.00. Both the claim and the cost bond shall be executed in quadruplicate.

(b) *Judicial condemnation.* The Chief Counsel of the Bureau of Alcohol, Tobacco and Firearms, shall authorize institution of forfeiture proceedings in those instances where the appraised value of the seized personal property or carrier exceeds $100,000.00 or where a claim and cost bond are filed.

Par. 5. The heading for Subpart F is revised and § 72.61 is amended by revising the heading for paragraph (a) and paragraph (b), to read as follows:

Subpart F—Administrative Sale or Disposition of Personal Property

§ 72.61 Alternative methods of sale.

(a) *Sale by auction or competitive bid.*

* * * * *

(b) *Sale by General Services Administration.* When a vessel, vehicle, or aircraft seized under 49 U.S.C. App., Chapter 11 is forfeited administratively, the Director may authorize the General Services Administration to conduct the sale pursuant to such conditions as the Director deems proper.

Par. 6. Section 72.69 is revised to read as follows:

§ 72.69 Alternative disposition of seized carriers.

(a) *State or local proceedings.* The Director may discontinue forfeiture proceedings instituted under the Customs laws for seizures of carriers under 49 U.S.C. App., Chapter 11 in favor of the institution of forfeiture proceedings by State or local authorities under an appropriate State or local statute. If such forfeiture proceedings are discontinued or dismissed, the

Director may transfer the seized property to the appropriate State or local official, and notice of discontinuance or dismissal shall be provided to all known interested parties.

(b) *Transfer to State or local law enforcement agency.* Any carrier forfeited under the Customs laws for seizures under 49 U.S.C. App., Chapter 11 may be transferred by the Director to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property.

(19 U.S.C. 1616)

PART 178—[AMENDED]

Par. 7. The authority citation for Part 178 continues to read as follows:

Authority: 18 U.S.C. 926.

Pars. 8–9. Section 178.1 is revised to read as follows:

§ 178.1 Scope of regulations.

(a) *General.* The regulations contained in this part relate to commerce in firearms and ammunition and are promulgated to implement Title I, State Firearms Control Assistance (18 U.S.C. Chapter 44), of the Gun Control Act of 1968 (82 Stat. 1213) as amended by Pub. L. 99–308 (100 Stat. 449), Pub. L. 99–360 (100 Stat. 766) and Pub. L. 99–408 (100 Stat. 920).

(b) *Procedural and substantive requirements.* This part contains the procedural and substantive requirements relative to:

(1) The interstate or foreign commerce in firearms and ammunition;

(2) The licensing of manufacturers and importers of firearms and ammunition, collectors of firearms, and dealers in firearms;

(3) The conduct of business or activity by licensees;

(4) The importation of firearms and ammunition;

(5) The records and reports required of licensees;

(6) Relief from disabilities under this part;

(7) Exempt interstate and foreign commerce in firearms and ammunition; and

(8) Restrictions on armor piercing ammunition.

Par. 10. Section 178.2 is revised to read as follows:

§ 178.2 Relation to other provisions of law.

The provisions in this part are in addition to, and are not in lieu of, any other provision of law, or regulations, respecting commerce in firearms or ammunition. For regulations applicable to traffic in machine guns, destructive devices, and certain other firearms, see Part 179 of this chapter. For statutes applicable to the registration and licensing of persons engaged in the business of manufacturing, importing or exporting arms, ammunition, or implements of war, see section 38 of the Arms Export Control Act (22 U.S.C. 2778) and regulations thereunder and Part 47 of this chapter. For statutes applicable to nonmailable firearms, see 18 U.S.C. 1715 and regulations thereunder.

Par. 11. Section 178.11 is amended by revising the definitions for Business premises, Collector, Crime punishable by imprisonment for a term exceeding 1 year, Curios or relics, Dealer, Importer, Licensed dealer, Licensed importer, Licensed manufacturer, Machine gun, Manufacturer, Pawnbroker, Pistol, Revolver, and State of residence, Armor piercing ammunition, Engaged in the business, Firearm muffler or firearm silencer, Handgun, and Principal objective of livelihood and profit; adding the definition Manufacture; and removing the definition for Felony to read as follows:

§ 178.11 Meaning of terms.

* * * * *

Armor piercing ammunition. Projectiles or projectile cores which may be used in a handgun and which are constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium. The term does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, frangible projectiles designed for target shooting, projectiles which the Director finds are primarily intended to be used for sporting purposes, or any other projectiles or projectile cores which the Director finds are intended to be used for industrial purposes, including charges used in oil and gas well perforating devices.

* * * * *

Business premises. The property on which the manufacturing or importing of firearms or ammunition or the dealing in firearms is or will be conducted. A private dwelling, no part of which is open to the public, shall not be recognized as coming within the meaning of the term.

* * * * *

Collector. Any person who acquires, holds, or disposes of firearms as curios or relics.

* * * * *

Crime punishable by imprisonment for a term exceeding 1 year. Any Federal, State or foreign offense for which the maximum penalty, whether or not imposed, is capital punishment or imprisonment in excess of 1 year. The term shall not include (a) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices or (b) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of 2 years or less. What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for the purposes of the Act or this part, unless such pardon, expunction, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms, or unless the person is prohibited by the law of the jurisdiction in which the proceedings were held from receiving or possessing any firearms.

Curios or relics. Firearms which are of special interest to collectors by reason of some quality other than is associated with firearms intended for sporting use or as offensive or defensive weapons. To be recognized as curios or relics, firearms must fall within one of the following categories:

(a) Firearms which were manufactured at least 50 years prior to the current date, but not including replicas thereof;

(b) Firearms which are certified by the curator of a municipal, State, or Federal museum which exhibits firearms to be curios or relics of museum interest; and

(c) Any other firearms which derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre, or because of their association with some historical figure, period, or event. Proof of qualification of a particular firearm under this category may be established by evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less.

* * * * *

Dealer. Any person engaged in the business of selling firearms at wholesale or retail; any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms; or any person who is a pawnbroker. The

term shall include any person who engages in such business or occupation on a part-time basis.

* * * * *

Engaged in the business—(a) *Manufacturer of firearms.* A person who devotes time, attention, and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured;

(b) *Manufacturer of ammunition.* A person who devotes time, attention, and labor to manufacturing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition manufactured;

(c) *Dealer in firearms other than a gunsmith or a pawnbroker.* A person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms, but such a term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms;

(d) *Gunsmith.* A person who devotes time, attention, and labor to engaging in such activity as a regular course of trade or business with the principal objective of livelihood and profit, but such a term shall not include a person who makes occasional repairs of firearms or who occasionally fits special barrels, stocks, or trigger mechanisms to firearms;

(e) *Importer of firearms.* A person who devotes time, attention, and labor to importing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms imported; and,

(f) *Importer of ammunition.* A person who devotes time, attention, and labor to importing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition imported.

* * * * *

Firearm muffler or firearm silencer. Any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.

* * * * *

Handgun. Any firearm including a pistol or revolver designed to be fired by the use of a single hand.

* * * * *

Importer. Any person engaged in the business of importing or bringing firearms or ammunition into the United States. The term shall include any person who engages in such business on a part-time basis.

* * * * *

Licensed dealer. A dealer licensed under the provisions of this part.

Licensed importer. An importer licensed under the provisions of this part.

Licensed manufacturer. A manufacturer licensed under the provisions of this part.

Machine gun. Any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.

Manufacture. This term and the various derivatives thereof shall include making, putting together, altering, any combination of these, or otherwise producing a firearm.

Manufacturer. Any person engaged in the business of manufacturing firearms or ammunition. The term shall include any person who engages in such business on a part-time basis.

Pawnbroker. Any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm as security for the payment or repayment of money. The term shall include any person who engages in such business on a part-time basis.

* * * * *

Pistol. A weapon originally designed, made, and intended to fire a projectile (bullet) from one or more barrels when held in one hand, and having (a) a chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and (b) a short stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s).

Principal objective of livelihood and profit. The intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents such as improving or liquidating a personal firearms collection: *Provided,* That proof of profit shall not be required as to a person who engages in the regular and repetitive purchase and disposition of firearms for criminal purposes or terrorism. For purposes of this part, the term "terrorism" means activity, directed against United States persons, which—

(a) Is committed by an individual who is not a national or permanent resident alien of the United States;

(b) Involves violent acts or acts dangerous to human life which would be a criminal violation if committed within the jurisdiction of the United States; and

(c) Is intended—

(1) To intimidate or coerce a civilian population;

(2) To influence the policy of a government by intimidation or coercion; or

(3) To affect the conduct of a government by assassination or kidnapping.

* * * * *

Revolver. A projectile weapon, of the pistol type, having a breechloading chambered cylinder so arranged that the cocking of the hammer or movement of the trigger rotates it and brings the next cartridge in line with the barrel for firing.

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State of residence. The State in which an individual regularly resides, or maintains a home, or if such person is on active duty as a member of the United States Armed Forces, the State in which the person's permanent duty station is located: *Provided,* That an alien who is legally in the United States shall be considered to be a resident of the State in which (a) the alien is residing or has so resided for a period of at least 90 days prior to the date of sale or delivery of a firearm, or (b) the alien's embassy or consulate is located if the principal officer of such embassy or consulate issues a written statement to such alien authorizing the alien to acquire a firearm. Temporary stay in a State does not make the State of temporary stay the State of residence.

Example 1. A maintains a home in State X. A travels to State Y on a hunting, fishing, business or other type of trip. A does not become a resident of State Y by reason of such trip.

Example 2. A maintains a home in State X and a home in State Y. A resides in State X except for weekends or the summer months of the year and in State Y for the weekends or the summer months of the year. During the time that A actually resides in State X, A is a resident of State X, and during the time that

A actually resides in State Y, A is a resident of State Y.

Example 3. A is a member of the Armed Forces whose permanent duty station is located in State X. However, A actually resides and maintains a home in State Y and commutes daily to the permanent duty station in State X to perform military duties. A is a resident of both State X and State Y at the same time.

Par. 12. Section 178.21 is amended by revising paragraph (c) to read as follows:

§ 178.21 Forms prescribed.

* * * * *

(c) Requests for forms should be mailed to the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153.

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Par. 13. Section 178.22 is revised to read as follows:

§ 178.22 Alternate methods or procedures; emergency variations from requirements.

(a) *Alternate methods or procedures.* The licensee, on specific approval by the Director as provided in this paragraph, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this part. The Director may approve an alternate method or procedure, subject to stated conditions, when it is found that:

(1) Good cause is shown for the use of the alternate method or procedure;

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure and that the alternate method or procedure is substantially equivalent to that specifically prescribed method or procedure; and

(3) The alternate method or procedure will not be contrary to any provision of law and will not result in an increase in cost to the Government or hinder the effective administration of this part.

Where the licensee desires to employ an alternate method or procedure, a written application shall be submitted to the appropriate regional director (compliance), for transmittal to the Director. The application shall specifically describe the proposed alternate method or procedure and shall set forth the reasons for it. Alternate methods or procedures may not be employed until the application is approved by the Director. The licensee shall, during the period of authorization of an alternate method or procedure, comply with the terms of the approved application. Authorization of any alternate method or procedure may be withdrawn whenever, in the judgment of the Director, the effective administration of this part is hindered by the continuation of the authorization.

(b) *Emergency variations from requirements.* The Director may approve a method of operation other than as specified in this part, where it is found that an emergency exists and the proposed variation from the specified requirements are necessary and the proposed variations (1) will not hinder the effective administration of this part, and (2) will not be contrary to any provisions of law. Variations from requirements granted under this paragraph are conditioned on compliance with the procedures, conditions, and limitations set forth in the approval of the application. Failure to comply in good faith with the procedures, conditions, and limitations shall automatically terminate the authority for the variations, and the licensee shall fully comply with the prescribed requirements of regulations from which the variations were authorized. Authority for any variation may be withdrawn whenever, in the judgment of the Director, the effective administration of this part is hindered by the continuation of the variation. Where the licensee desires to employ an emergency variation, a written application shall be submitted to the appropriate regional director (compliance) for transmittal to the Director. The application shall describe the proposed variation and set forth the reasons for it. Variations may not be employed until the application is approved.

(c) *Retention of approved variations.* The licensee shall retain, as part of the licensee's records, available for examination by ATF officers, any application approved by the Director under this section.

Par. 14. Section 178.23 is revised to read as follows:

§ 178.23 Right of entry and examination.

(a) Except as provided in paragraph (b), any ATF officer, when there is reasonable cause to believe a violation of the Act has occurred and that evidence of the violation may be found on the premises of any licensed manufacturer, licensed importer, licensed dealer, or licensed collector, may, upon demonstrating such cause before a Federal magistrate and obtaining from the magistrate a warrant authorizing entry, enter during business hours (or, in the case of a licensed collector, the hours of operation) the premises, including places of storage, of any such licensee for the purpose of inspecting or examining:

(1) Any records or documents required to be kept by such licensee under this part and

(2) Any inventory of firearms or ammunition kept or stored by any licensed manufacturer, licensed importer, or licensed dealer at such premises or any firearms curios or relics or ammunition kept or stored by any licensed collector at such premises.

(b) Any ATF officer, without having reasonable cause to believe a violation of the Act has occurred or that evidence of the violation may be found and without demonstrating such cause before a Federal magistrate or obtaining from the magistrate a warrant authorizing entry, may enter during business hours the premises, including places of storage, of any licensed manufacturer, licensed importer, or licensed dealer for the purpose of inspecting or examining the records, documents, ammunition and firearms referred to in paragraph (a) of this section:

(1) In the course of a reasonable inquiry during the course of a criminal investigation of a person or persons other than the licensee,

(2) For insuring compliance with the recordkeeping requirements of this part not more than once during any 12-month period, or

(3) When such inspection or examination may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation.

(c) Any ATF officer, without having reasonable cause to believe a violation of the Act has occurred or that evidence of the violation may be found and without demonstrating such cause before a Federal magistrate or obtaining from the magistrate a warrant authorizing entry, may enter during hours of operation the premises, including places of storage, of any licensed collector for the purpose of inspecting or examining the records, documents, firearms, and ammunition referred to in paragraph (a) of this section (1) for ensuring compliance with the recordkeeping requirements of this part not more than once during any 12-month period or (2) when such inspection or examination may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation. At the election of the licensed collector, the annual inspection permitted by this paragraph shall be performed at the ATF office responsible

for conducting such inspection in closest proximity to the collectors premises.

(d) The inspections and examinations provided by this section do not authorize an ATF officer to seize any records or documents other than those records or documents constituting material evidence of a violation of law. If an ATF officer seizes such records or documents, copies shall be provided the licensee within a reasonable time.

Par. 15. Section 178.24 is revised to read as follows:

§ 178.24 Compilation of State laws and published ordinances.

(a) The Director shall annually revise and furnish Federal firearms licensees with a compilation of State laws and published ordinances which are relevant to the enforcement of this part. The Director annually revises the compilation and publishes it as "State Laws and Published Ordinances—Firearms" which is furnished free of charge to licensees under this part. Where the compilation has previously been furnished to licensees, the Director need only furnish amendments of the relevant laws and ordinances to such licensees.

(b) "State Laws and Published Ordinances—Firearms" is incorporated by reference in this part. It is ATF Publication 5300.5, revised yearly. The current edition is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. It is also available for inspection at the Office of the Federal Register, Room 8401, 1100 L Street NW., Washington, DC. This incorporation by reference was approved by the Director of the Federal Register.

Par. 16. Section 178.25 is revised to read as follows:

§ 178.25 Disclosure of information.

The regional director (compliance) may make available to any Federal, State or local law enforcement agency any information which is obtained by reason of the provisions of the Act with respect to the identification of persons prohibited from purchasing or receiving firearms or ammunition who have purchased or received firearms or ammunition, together with a description of such firearms or ammunition. Upon the request of any Federal, State or local law enforcement agency, the regional director (compliance) may provide such agency any information contained in the records required to be maintained by the Act or this part.

Par. 17. Section 178.26 is revised to read as follows:

§ 178.26 Curio and relic determination.

Any person who desires to obtain a determination whether a particular firearm is a curio or relic shall submit a written request, in duplicate, for a ruling thereon to the Director. Each such request shall be executed under the penalties of perjury and shall contain a complete and accurate description of the firearm, and such photographs, diagrams, or drawings as may be necessary to enable the Director to make a determination. The Director may require the submission of the firearm for examination and evaluation. If the submission of the firearm is impractical, the person requesting the determination shall so advise the Director and designate the place where the firearm will be available for examination and evaluation.

Par. 18. Section 178.29 is revised to read as follows:

§ 178.29 Out-of-State acquisition of firearms by nonlicensees.

No person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, shall transport into or receive in the State where the person resides (or if a corporation or other business entity, where it maintains a place of business) any firearm purchased or otherwise obtained by such person outside that State: *Provided,* That the provisions of this section:

(a) Shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than his State of residence from transporting the firearm into or receiving it in that State, if it is lawful for such person to purchase or possess such firearm in that State,

(b) Shall not apply to the transportation or receipt of a rifle or shotgun obtained from a licensed manufacturer, licensed importer, licensed dealer, or licensed collector in a State other than the transferee's State of residence in an over-the-counter transaction at the licensee's premises obtained in conformity with the provisions of § 178.96(c) and

(c) Shall not apply to the transportation or receipt of a firearm obtained in conformity with the provisions of §§ 178.30 and 178.97.

Par. 19. Section 178.32 is revised to read as follows:

§ 178.32 Prohibited shipment, transportation, possession, or receipt of firearms and ammunition by certain persons.

(a) No person may ship or transport any firearm or ammunition in interstate or foreign commerce, or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce, or possess any firearm or ammunition in or affecting commerce, who:

(1) Has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year,

(2) Is a fugitive from justice,

(3) Is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802),

(4) Has been adjudicated as a mental defective or has been committed to a mental institution,

(5) Is an alien illegally or unlawfully in the United States,

(6) Has been discharged from the Armed Forces under dishonorable conditions, or

(7) Having been a citizen of the United States, has renounced citizenship.

(b) No person who is under indictment for a crime punishable by imprisonment for a term exceeding one year may ship or transport any firearm or ammunition in interstate or foreign commerce or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(c) Any individual, who to that individual's knowledge and while being employed by any person described in paragraph (a) of this section, may not in the course of such employment receive, possess, or transport any firearm or ammunition in commerce or affecting commerce or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(d) No person may sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person:

(1) Is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year,

(2) Is a fugitive from justice,

(3) Is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802),

(4) Has been adjudicated as a mental defective or has been committed to a mental institution,

(5) Is an alien illegally or unlawfully in the United States,

(6) Has been discharged from the Armed Forces under dishonorable conditions; or

(7) Having been a citizen of the United States, has renounced citizenship.

Par. 20. Section 178.33 is revised to read as follows:

§ 178.33 Stolen firearms and ammunition.

No person shall transport or ship in interstate or foreign commerce any stolen firearm or stolen ammunition or pledge or accept as security for a loan any stolen firearm or ammunition knowing or having reasonable cause to believe that the firearm or ammunition was stolen, and no person shall receive, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition which is moving as, which is a part of, or which constitutes interstate or foreign commerce, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

Par. 21. Section 178.36 is revised to read as follows:

§ 178.36 Transfer or possession of machine guns.

No person shall transfer or possess a machine gun except:

(a) A transfer to or by, or possession by or under the authority of, the United States, or any department or agency thereof, or a State, or a department, agency, or political subdivision thereof. (See Part 179 of this chapter); or

(b) Any lawful transfer or lawful possession of a machine gun that was lawfully possessed before May 19, 1986 (See Part 179 of this chapter).

Par. 22. Section 178.37 is revised to read as follows:

§ 178.37 Manufacture, importation and sale of armor piercing ammunition.

No person shall manufacture or import, and no manufacturer or importer shall sell or deliver, armor piercing ammunition, except:

(a) The manufacture or importation, or the sale or delivery by any manufacturer or importer, of armor piercing ammunition for the use of the United States or any department or agency thereof or any State or any department, agency or political subdivision thereof;

(b) The manufacture, or the sale or delivery by a manufacturer or importer, of armor piercing ammunition for the purpose of exportation; or

(c) The sale or delivery by a manufacturer or importer of armor piercing ammunition for the purposes of testing or experimentation as authorized by the Director under the provisions of § 178.149.

Par. 23. Section 178.38 is added to read as follows:

§ 178.38 Transportation of firearms.

Notwithstanding any other provision of any law or any rule or regulation of a State or any political subdivision thereof, any person who is not otherwise prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport a firearm for any lawful purpose from any place where such person may lawfully possess and carry such firearm to any other place where such person may lawfully possess and carry such firearm if, during such transportation the firearm is unloaded, and neither the firearm nor any ammunition being transported is readily accessible or is directly accessible from the passenger compartment of such transporting vehicle: *Provided*, That in the case of a vehicle without a compartment separate from the driver's compartment the firearm or ammunition shall be contained in a locked container other than the glove compartment or console.

Par. 24. Section 178.41 is amended by revising paragraphs (a) and (b) to read as follows:

§ 178.41 General.

(a) Each person intending to engage in business as an importer or manufacturer of firearms or ammunition, or a dealer in firearms shall, before commencing such business, obtain the license required by this subpart for the business to be operated. Each person who desires to obtain a license as a collector of curios or relics may obtain such a license under the provisions of this subpart.

(b) Each person intending to engage in business as a firearms or ammunition importer or manufacturer, or dealer in firearms shall file an application, with the required fee (see § 178.42), with ATF in accordance with the instructions on the form (see § 178.44), and, pursuant to § 178.47, receive the license required for such business from the regional director (compliance). Except as provided in § 178.50, a license must be obtained for each business and each place at which the applicant is to do business. A license as an importer or manufacturer of firearms or ammunition, or a dealer in firearms shall, subject to the provisions of the Act and other applicable provisions of law, entitle the licensee to transport, ship, and receive firearms and ammunition covered by such license in interstate or foreign commerce and to engage in the business specified by the license, at the location described on the license, and for the period stated on the license. However, it shall not be necessary for a licensed importer or a licensed manufacturer to also obtain a dealer's license in order to engage in business on the licensed premises as a dealer in the same type of firearms authorized by the license to be imported or manufactured. Payment of the license fee as an importer or manufacturer of destructive devices, ammunition for destructive devices or armor piercing ammunition or as a dealer in destructive devices includes the privilege of importing or manufacturing firearms other than destructive devices and ammunition for other than destructive devices or ammunition other than armor piercing ammunition, or dealing in firearms other than destructive devices, as the case may be, by such a licensee at the licensed premises.

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Par. 25. Section 178.42 is revised to read as follows:

§ 178.42 License fees.

Each applicant shall pay a fee at a yearly rate for obtaining a firearms license or ammunition license, a separate fee being required for each business or collecting activity at each place of such business or activity, as follows:

(a) For a manufacturer:

(1) Of destructive devices, ammunition for destructive devices or armor piercing ammunition—$1,000 per year.

(2) Of firearms other than destructive devices—$50 per year.

(3) Of ammunition for firearms other than ammunition for destructive devices or armor piercing ammunition—$10 per year.

(b) For an importer:

(1) Of destructive devices, ammunition for destructive devices or armor piercing ammunition—$1,000 per year.

(2) Of firearms other than destructive devices or ammunition for firearms other than destructive devices or ammunition other than armor piercing ammunition—$50 per year.

(c) For a dealer:

(1) In destructive devices—$1,000 per year.

(2) Who is a pawnbroker dealing in firearms other than destructive devices—$25 per year.

(3) Who is not a dealer in destructive devices or a pawnbroker—$10 per year.

(d) For a collector of curios and relics—$10 per year.

Par. 26. Section 178.43 is revised to read as follows:

§ 178.43 License fee not refundable.

No refund of any part of the amount paid as a license fee shall be made where the operations of the licensee are, for any reason, discontinued during the period of an issued license. However, the license fee submitted with an application for a license shall be refunded if that application is denied or withdrawn by the applicant prior to being acted upon.

Par. 27. Section 178.44 is revised to read as follows:

§ 178.44 Original license.

(a) Any person who intends to engage in business as a firearms or ammunition importer or manufacturer, or firearms dealer, or who has not previously been licensed under the provisions of this part to so engage in business, or who has not timely submitted an application for renewal of the previous license issued under this part, shall file an application for license, ATF Form 7 (Firearms), in duplicate, with ATF in accordance with the instructions on the form. The application must be executed under the penalties of perjury and the penalties imposed by 18 U.S.C. 924. The application shall be accompanied by the appropriate fee in the form of money order or check made payable to the Bureau of Alcohol, Tobacco and Firearms. ATF Forms 7 (Firearms) may be obtained from any ATF office.

(b) Any person who desires to obtain a license as a collector under the Act and this part, or who has not timely submitted an application for renewal of the previous license issued under this part, shall file an application, ATF Form 7 (Firearms), in duplicate, with ATF in accordance with the instructions on the form. The application must be executed under the penalties of perjury and the penalties imposed by 18 U.S.C. 924. The application shall be accompanied by the appropriate fee in the form of a money order or check made payable to the Bureau of Alcohol, Tobacco and Firearms. ATF Forms 7 (Firearms) may be obtained from any ATF office.

(18 U.S.C. 926 (82 Stat. 1226))

Par. 28. Section 178.45 is revised to read as follows:

§ 178.45 Renewal of license.

If a licensee intends to continue the business or activity described on a license issued under this part during any portion of the ensuing year, the licensee shall, unless otherwise notified in writing by the regional director (compliance), execute and file prior to the expiration of the license an application for a license renewal, ATF Form 8 Part II, accompanied by the required fee, with ATF in accordance with the instructions on the form. The regional director (compliance) may, in writing, require the applicant for license renewal to also file completed ATF Form 7 in the manner required by § 178.44. In the event the licensee does not timely file an ATF Form 8 Part II, the licensee must file an ATF Form 7 as required by § 178.44, and obtain the required license before continuing business or collecting activity. If an ATF Form 8 Part II is not timely received through the mails, the licensee should so notify the regional director (compliance).

(18 U.S.C. 926 (82 Stat. 1226))

Par. 29. Section 178.47 is amended by revising paragraphs (a), (b) (1) and (2), and (c) to read as follows:

§ 178.47 Issuance of license.

(a) Upon receipt of a properly executed application for a license on ATF Form 7, or ATF Form 8 Part II, the regional director (compliance) shall, upon finding through further inquiry or investigation, or otherwise, that the applicant is qualified, issue the appropriate license. Each license shall bear a serial number and such number may be assigned to the licensee to whom issued for so long as the licensee maintains continuity of renewal in the same location (State).

(b) The regional director (compliance) shall approve a properly executed application for license on ATF Form 7, or ATF Form 8 Part II, if:

(1) The applicant is 21 years of age or over;

(2) The applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is not prohibited under the provisions of the Act from shipping or transporting in interstate or foreign commerce, or possessing in or affecting commerce, any firearm or ammunition, or from receiving any firearm or ammunition which has been shipped or transported in interstate or foreign commerce;

* * * * *

(c) The regional director (compliance) shall approve or deny an application for license within the 45-day period beginning on the date the properly executed application was received: *Provided*, That when an applicant for license renewal is a person who is, pursuant to the provisions of § 178.78, § 178.143, or § 178.144, conducting business or collecting activity under a previously issued license, action regarding the application will be held in abeyance pending the completion of the proceedings against the applicant's existing license or license application, final determination of the applicant's criminal case, or final action by the Director on an application for relief submitted pursuant to § 178.144, as the case may be.

* * * * *

Par. 30. Section 178.49 is revised to read as follows:

§ 178.49 Duration of license.

The license entitles the person to whom issued to engage in the business or activity specified on the license, within the limitations of the Act and the regulations contained in this part, for a three year period, unless terminated sooner.

§ 178.71 [Amended]

Par. 31. Section 178.71 is amended by replacing in the first sentence the word "eligible" with the word "qualified".

Par. 32. Section 178.73 is revised to read as follows:

§ 178.73 Notice of revocation.

Whenever the regional director (compliance) has reason to believe that a licensee has willfully violated any provision of the Act or this part, a notice of revocation of the license, ATF Form 4500, may be issued. The notice shall set forth the matters of fact constituting the violations specified, dates, places, and the sections of law and regulations violated. The regional director (compliance) shall afford the licensee 15 days from the date of receipt of the notice in which to request a hearing prior to revocation of the license. If the licensee does not file a timely request for a hearing, the regional director (compliance) shall issue a final notice of revocation, ATF Form 4501, as provided in § 178.74.

Par. 33. Section 178.74 is revised to read as follows:

§ 178.74 Request for hearing after notice of revocation.

If a licensee desires a hearing after receipt of a notice of revocation of a license, the licensee shall file a request, in duplicate, with the regional director (compliance) within 15 days after receipt of the notice of revocation. On receipt of such request, the regional director (compliance) shall, as expeditiously as possible, make necessary arrangements for the hearing and advise the licensee of the date, time, location and the name of the officer before whom the hearing will be held. Such notification shall be made not less than 10 days in advance of the date set for hearing. On conclusion of the hearing and consideration of all the relevant presentations made by the licensee or the licensee's representative, the regional director (compliance) shall render a decision and shall prepare a brief summary of the findings and conclusions on which the decision is based. If the decision is that the license should be revoked, a certified copy of the summary shall be furnished to the licensee with the final notice of

revocation on ATF Form 4501. If the decision is that the license should not be revoked, the licensee shall be notified in writing.

Par. 34. In § 178.75, the word "formal" is removed from the first sentence, § 178.76, the words "under § 178.75(b)" are removed and § 178.77 is revised to read as follows:

§ 178.77 Designated place of hearing.

The designated place of the hearing shall be a location convenient to the aggrieved party.

Par. 35. Section 178.92 is revised to read as follows:

§ 178.92 Identification of firearms and armor piercing ammunition.

(a) *Firearms.* Each licensed manufacturer or licensed importer of any firearm manufactured or imported shall legibly identify each such firearm by engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed) or placed on the frame or receiver thereof in a manner not susceptible of being readily obliterated, altered, or removed, an individual serial number not duplicating any serial number placed by the manufacturer or importer on any other firearm, and by engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed) or placed on the frame, receiver, or barrel thereof in a manner not susceptible of being readily obliterated, altered or removed, the model, if such designation has been made; the caliber or gauge; the name (or recognized abbreviation of same) of the manufacturer and also, when applicable, of the importer; in the case of a domestically made firearm, the city and State (or recognized abbreviation thereof) wherein the licensed manufacturer maintains its place of business; and in the case of an imported firearm, the name of the country in which manufactured and the city and State (or recognized abbreviation thereof) of the importer: *Provided,* That the Director may authorize other means of identification of the licensed manufacturer or licensed importer upon receipt of letter application, in duplicate, showing that such other identification is reasonable and will not hinder the effective administration of this part: *Provided further,* That in the case of a destructive device, the Director may authorize other means of identifying that weapon upon receipt of letter application, in duplicate, from the licensed manufacturer or licensed importer showing that engraving, casting, or stamping (impressing) such a weapon would be dangerous or impracticable. A firearm frame or receiver, or any part defined as a machine gun, firearm muffler, or firearm silencer in § 178.11, which is not a component part of a complete weapon at the time it is sold, shipped, or otherwise disposed of by a licensed manufacturer or licensed importer, shall be identified as required by this section. The Director may authorize other means of identification of parts defined as machine guns other than frames or receivers and parts defined as mufflers or silencers upon receipt of a letter application, in duplicate, showing that such other identification is reasonable and will not hinder the effective administration of this part.

(b) *Armor piercing ammunition.*— (1) *Marking of ammunition.* Each licensed manufacturer or licensed importer of armor piercing ammunition shall identify such ammunition by means of painting, staining or dying the exterior of the projectile with an opaque black coloring. This coloring must completely cover the point of the projectile and at least 50 percent of that portion of the projectile which is visible when the projectile is loaded into a cartridge case.

(2) *Labeling of packages.* Each licensed manufacturer or licensed importer of armor piercing ammunition shall clearly and conspicuously label each package in which armor piercing ammunition is contained, e.g., each box, carton, case, or other container. The label shall include the words "ARMOR PIERCING" in block letters at least ¼ inch in height. The lettering shall be located on the exterior surface of the package which contains information concerning the caliber or gauge of the ammunition. There shall also be placed on the same surface of the package in block lettering at least ⅛ inch in height the words "FOR GOVERNMENTAL ENTITIES OR EXPORTATION ONLY." The statements required by this subparagraph shall be on a contrasting background.

Par. 36. Section 178.93 is revised to read as follows:

§ 178.93 Authorized operations by a licensed collector.

The license issued to a collector of curios or relics under the provisions of this part shall cover only transactions by the licensed collector in curios and relics. The collector's license is of no force or effect and a licensed collector is of the same status under the Act and this part as a nonlicensee with respect to (a) any acquisition or disposition of firearms other than curios or relics, or any transportation, shipment, or receipt of firearms other than curios or relics in interstate or foreign commerce, and (b) any transaction with a nonlicensee involving any firearm other than a curio or relic. (See also § 178.50.) A collectors license is not necessary to receive or dispose of ammunition, and a licensed collector is not precluded by law from receiving or disposing of armor piercing ammunition. However, a licensed collector may not dispose of any ammunition to a person prohibited from receiving or possessing ammunition (see § 178.99(c)). Any licensed collector who disposes of armor piercing ammunition must record the disposition as required by § 178.125 (a) and (b).

Par. 37. Section 178.94 is revised to read as follows:

§ 178.94 Sales or deliveries between licensees.

A licensed importer, licensed manufacturer, or licensed dealer selling or otherwise disposing of firearms, and a licensed collector selling or otherwise disposing of curios or relics, to another licensee shall verify the identity and licensed status of the transferee prior to making the transaction. Verification shall be established by the transferee furnishing to the transferor a certified copy of the transferee's license and by such other means as the transferor deems necessary:

Provided, That it shall not be required (a) for a transferee who has furnished a certified copy of its license to a transferor to again furnish such certified copy to that transferor during the term of the transferee's current license, (b) for a licensee to furnish a certified copy of its license to another licensee if a firearm is being returned either directly or through another licensee to such licensee and (c) for licensees of multilicensed business organizations to furnish certified copies of their licenses to other licensed locations operated by such organization:

Provided further, That a multilicensed business organization may furnish to a transferor, in lieu of a certified copy of each license, a list, certified to be true, correct and complete, containing the name, address, license number, and the date of license expiration of each licensed location operated by such organization, and the transferor may sell or otherwise dispose of firearms as provided by this section to any licensee appearing on such list without requiring a certified copy of a license therefrom. A transferor licensee who has the certified information required by this section may sell or dispose of firearms to a licensee for not more than 45 days following the expiration date of the transferee's license.

(Approved by the Office of Management and Budget under control number 1512–0387)

Par. 38. Section 178.95 is revised to read as follows:

§ 178.95 Certified copy of license.

The license furnished to each person licensed under the provisions of this part contains a purchasing certification statement. This original license may be reproduced and the reproduction then certified by the licensee for use pursuant to § 178.94. If the licensee desires an additional copy of the license for certification (instead of making a reproduction of the original license), the licensee may submit a request, in writing, for a certified copy or copies of the license to the regional director (compliance) for the region in which the premises is located. The request must set forth the name, trade name (if any) and address of the licensee, and the number of license copies desired. There is a charge of $1 for each copy. The fee paid for copies of the license must accompany the request for copies. The fee may be paid by (a) cash, or (b) money order or check made payable to the Bureau of Alcohol, Tobacco and Firearms.

(Approved by the Office of Management and Budget under control number 1512–0387)

Par. 39. Section 178.96 is amended by revising paragraphs (a) and (c) to read as follows:

§ 178.96 Out-of-State and mail order sales.

(a) The provisions of this section shall apply when a firearm is purchased by or delivered to a person not otherwise prohibited by the Act from purchasing or receiving it.

* * * * *

(c) A licensed importer, licensed manufacturer, or licensed dealer may sell or deliver a rifle or shotgun, and a licensed collector may sell or deliver a rifle or shotgun which is a curio or relic, to a nonlicensed resident of a State other than the State in which the licensee's place of business is located if the purchaser meets with the licensee in person at the licensee's premises to accomplish the transfer, sale and delivery of the rifle or shotgun and the sale, delivery and receipt fully comply with the legal conditions of sale in both such States. For purposes of this paragraph, any licensed manufacturer, licensed importer, or licensed dealer is presumed, in the absence of evidence to the contrary, to have had actual knowledge of the State laws and published ordinances of both such States.

(Approved by the Office of Management and Budget under control number 1512–0130)

Par. 40. Section 178.98 is revised to read as follows:

§ 178.98 Sales or deliveries of destructive devices and certain firearms.

The sale or delivery by a licensee of any destructive device, machine gun, short-barreled shotgun, or short-barreled rifle, to any person other than another licensee who is licensed under this part to deal in such device or firearm, is prohibited unless the person to receive such device or firearm furnishes to the licensee a sworn statement setting forth

(a) The reasons why there is a reasonable necessity for such person to purchase or otherwise acquire the device or weapon; and

(b) That such person's receipt or possession of the device or weapon would be consistent with public safety. Such sworn statement shall be made on the application to transfer and register the firearm required by Part 179 of this chapter. The sale or delivery of the device or weapon shall not be made until the application for transfer is approved by the Director and returned to the licensee (transferor) as provided in Part 179 of this chapter.

Par. 41. Section 178.99 is revised to read as follows:

§ 178.99 Certain prohibited sales or deliveries.

(a) *Interstate sales or deliveries.* A licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall not sell or deliver any firearm to any person not licensed under this part and who the licensee knows or has reasonable cause to believe does not reside in (or if a corporation or other business entity, does not maintain a place of business in) the State in which the licensee's place of business or activity is located: *Provided,* That the foregoing provisions of this paragraph (1) shall not apply to the sale or delivery of a rifle or shotgun (curio or relic, in the case of a licensed collector) to a resident of a State other than the State in which the licensee's place of business or collection premises is located if the requirements of § 178.96(c) are fully met, and (2) shall not apply to the loan or rental of a firearm to any person for temporary use for lawful sporting purposes (see § 178.97).

(b) *Sales or deliveries to underaged persons.* A licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall not sell or deliver (1) any firearm or ammunition to any individual who the importer, manufacturer, dealer, or collector knows or has reasonable cause to believe is less than 18 years of age, and, if the firearm, or ammunition, is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the importer, manufacturer, dealer, or collector knows or has reasonable cause to believe is less than 21 years of age, or (2) any firearm to any person in any State where the purchase or possession by such person of such firearm would be in violation of any State law or any published ordinance applicable at the place of sale, delivery, or other disposition, unless the importer, manufacturer, dealer, or collector knows or has reasonable cause to believe that the purchase or possession would not be in violation of such State law or such published ordinance.

(c) *Sales or deliveries to prohibited categories of persons.* A licensed manufacturer, licensed importer, licensed dealer, or licensed collector shall not sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person:

(1) Is, except as provided by § 178.143, under indictment for, or, except as provided by § 178.144, has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year;

(2) Is a fugitive from justice;

(3) Is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substance Act, 21 U.S.C. 802);

(4) Has been adjudicated as a mental defective or has been committed to any mental institution;

(5) Is an alien illegally or unlawfully in the United States;

(6) Has been discharged from the Armed Forces under dishonorable conditions; or

(7) Who, having been a citizen of the United States, has renounced citizenship.

(d) *Manufacture, importation, and sale of armor piercing ammunition by licensed importers and licensed manufacturers.* A licensed importer or licensed manufacturer shall not import or manufacture armor piercing ammunition or sell or deliver such ammunition, except:

(1) For use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof;

(2) For the purpose of exportation; or

(3) For the purpose of testing or experimentation authorized by the Director under the provisions of § 178.149.

(e) *Transfer of armor piercing ammunition by licensed dealers.* A licensed dealer shall not willfully

transfer armor piercing ammunition: *Provided,* That armor piercing ammunition received and maintained by the licensed dealer as business inventory prior to August 28, 1986, may be transferred to any department or agency of the United States or any State or political subdivision thereof if a record of such ammunition is maintained in the form and manner prescribed by § 178.125(c). Any licensed dealer who violates this paragraph is subject to license revocation. See Subpart E of this part. For purposes of this paragraph, the Director shall furnish each licensed dealer information defining which projectiles are considered armor piercing. Such information may not be all-inclusive for purposes of the prohibition on manufacture, importation, or sale or delivery by a manufacturer or importer of such ammunition or 18 U.S.C. 929 relating to criminal misuse of such ammunition.

Par. 42. Section 178.100 is revised to read as follows:

§ 178.100 Conduct of business away from licensed premises.

(a) A licensee may conduct business temporarily at a gun show or event as defined in paragraph (b) if the gun show or event is located in the same State specified on the license: *Provided,* That such business shall not be conducted from any motorized or towed vehicle. The premises of the gun show or event at which the licensee conducts business shall be considered part of the licensed premises. Accordingly, no separate fee or license is required for the gun show or event locations. However, licensees shall comply with the provisions of § 178.91 relating to posting of licenses (or a copy thereof) while conducting business at the gun show or event.

(b) A gun show or an event is a function sponsored by any national, State, or local organization, devoted to the collection, competitive use, or other sporting use of firearms, or an organization or association that sponsors functions devoted to the collection, competitive use, or other sporting use of firearms in the community.

(c) Licensees conducting business at gun shows or events shall maintain firearms records in the form and manner prescribed by Subpart H of this part. In addition, records of firearms transactions conducted at gun shows or events shall include the location of the sale or other disposition and be entered in the acquisition and disposition records of the licensee and retained on the premises specified on the license.

Par. 43. Section 178.101 is revised to read as follows:

§ 178.101 Record of transactions.

Every licensee shall maintain firearms and armor piercing ammunition records in such form and manner as is prescribed by Subpart H of this part.

Par. 44. Section 178.111 is revised to read as follows:

§ 178.111 General.

(a) Section 922(a)(3) of the Act makes it unlawful, with certain exceptions not pertinent here, for any person other than a licensee to transport into or receive in the State where the person resides any firearm purchased or otherwise obtained by the person outside of that State. However, section 925(a)(4) provides a limited exception for the transportation, shipment, receipt or importation of certain firearms and ammunition by certain members of the United States Armed Forces. Section 922(1) of the Act makes it unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition except as provided by section 925(d) of the Act, which section provides standards for importing or bringing firearms or ammunition into the United States. Section 925(d) also provides standards for importing or bringing firearm barrels into the United States. Accordingly, no firearm, firearm barrel, or ammunition may be imported or brought into the United States except as provided by this part.

(b) Where a firearm, firearm barrel, or ammunition is imported and the authorization for importation required by this subpart has not been obtained by the person importing same, such person shall:

(1) Store, at the person's expense, such firearm, firearm barrel, or ammunition at a facility designated by U.S Customs or the regional director (compliance) to await the issuance of the required authorization or other disposition; or

(2) Abandon such firearm, firearm barrel, or ammunition to the U.S. Government; or

(3) Export such firearm, firearm barrel, or ammunition.

(c) Any inquiry relative to the provisions or procedures under this subpart, other than that pertaining to the payment of customs duties or the release from Customs custody of firearms, firearm barrels, or ammunition authorized by the Director to be imported, shall be directed to the regional director (compliance) for reply.

Par. 45. Section 178.112 is revised to read as follows:

§ 178.112 Importation by a licensed importer.

(a) No firearm, firearm barrel, or ammunition shall be imported or brought into the United States by a licensed importer (as defined in § 178.11) unless the Director has authorized the importation of the firearm, firearm barrel, or ammunition.

(b) An application for a permit, ATF Form 6, to import or bring a firearm, firearm barrel, or ammunition into the United States or a possession thereof under this section shall be filed, in triplicate, with the Director. The application shall contain (1) the name, address, and license number of the importer, (2) a description of the firearm, firearm barrel, or ammunition to be imported, including type (e.g.; rifle, shotgun, pistol, revolver; and in the case of ammunition only, ball, wadcutter), model, caliber, size or gauge, barrel length (if a firearm or firearm barrel), country of manufacture, and name of the manufacturer, (3) the unit cost of the firearm, firearm barrel, or ammunition to be imported, (4) the country from which to be imported, (5) the name and address of the foreign seller and the foreign shipper, (6) verification that if a firearm, it will be identified as required by this part, and (7)(i) if a firearm or ammunition imported or brought in for scientific or research purposes, a statement describing such purposes, or (ii) if a firearm or ammunition for use in connection with competition or training pursuant to Chapter 401 of Title 10, U.S.C., a statement describing such intended use, or (iii) if an unserviceable firearm (other than a machine gun) being imported as a curio or museum piece, a description of how it was rendered unserviceable and an explanation of why it is a curio or museum piece, or (iv) if a firearm other than a surplus military firearm, of a type that does not fall within the definition of a firearm under section 5845(a) of the Internal Revenue Code of 1986, and is for sporting purposes, an explanation of why the firearm is generally recognized as particularly suitable for or readily adaptable to sporting purposes, or (v) if ammunition being imported for sporting purposes, a statement why the ammunition is particularly suitable for or readily adaptable to sporting purposes, or (vi) if a firearm barrel, and is for a handgun, an explanation why the handgun is generally recognized as particularly suitable for or readily adaptable to sporting purposes. If the Director approves the application, such approved application shall serve as the permit to import the firearm, firearm barrel, or ammunition described therein.

and importation of such firearms, firearm barrels, or ammunition may continue to be made by the licensed importer under the approved application (permit) during the period specified thereon. The Director shall furnish the approved application (permit) to the applicant and retain two copies thereof for administrative use. If the Director disapproves the application, the licensed importer shall be notified of the basis for the disapproval.

(c) A firearm, firearm barrel, or ammunition imported or brought into the United States by a licensed importer may be released from Customs custody to the licensed importer upon showing that the importer has obtained a permit from the Director for the importation of the firearm, firearm barrel, or ammunition to be released. In obtaining the release from Customs custody of a firearm, firearm barrel, or ammunition authorized by this section to be imported through use of a permit, the licensed importer shall prepare ATF Form 6A, in duplicate, and furnish the original ATF Form 6A to the Customs officer releasing the firearm, firearm barrel, or ammunition. The Customs officer shall, after certification, forward the ATF Form 6A to the address specified on the form. The ATF Form 6A shall show the name, address, and license number of the importer, the name of the manufacturer of the firearm, firearm barrel, or ammunition, the country of manufacture, the type, model, and caliber, size or gauge, and the number of firearms, firearm barrels, or rounds of ammunition released.

(d) Within 15 days of the date of release from Customs custody, the licensed importer shall (1) forward to the address specified on the form a copy of ATF Form 6A on which shall be reported any error or discrepancy appearing on the ATF Form 6A certified by Customs, (2) pursuant to § 178.92, place all required identification data on each imported firearm if same did not bear such identification data at the time of its release from Customs custody, and (3) post in the records required to be maintained by the importer under Subpart H of this part all required information regarding the importation.

Par. 46. Section 178.113 is revised to read as follows:

§ 178.113 Importation by other licensees.

(a) No person other than a licensed importer (as defined in § 178.11) shall engage in the business of importing firearms or ammunition. Therefore, no firearm or ammunition shall be imported or brought into the United States or a possession thereof by any licensee other than a licensed importer unless the Director issues a permit authorizing the importation of the firearm or ammunition. No barrel for a handgun not generally recognized as particularly suitable for or readily adaptable to sporting purposes shall be imported or brought into the United States or a possession thereof by any person. Therefore, no firearm barrel shall be imported or brought into the United States or possession thereof by any licensee other than a licensed importer unless the Director issues a permit authorizing the importation of the firearm barrel.

(b) An application for a permit, ATF Form 6, to import or bring a firearm, firearm barrel or ammunition into the United States or a possession thereof by a licensee, other than a licensed importer, shall be filed, in triplicate, with the Director. The application shall contain (1) the name, address, and license number of the applicant, (2) a description of the firearm, firearm barrel or ammunition to be imported, including type (e.g.; rifle, shotgun, pistol, revolver; and in the case of ammunition only, ball, wadcutter), model, caliber, size or gauge, barrel length (if a firearm or firearm barrel), country of manufacture, and name of the manufacturer, (3) the unit cost of the firearm, firearm barrel or ammunition to be imported, (4) the name and address of the foreign seller and the foreign shipper, (5) the country from which the firearm, firearm barrel, or ammunition is to be imported, and (6)(i) if a firearm or ammunition imported or brought in for scientific or research purposes, a statement describing such purposes, or (ii) if a firearm or ammunition for use in connection with competition or training pursuant to Chapter 401 of Title 10, U.S.C., a statement describing such intended use, or (iii) if an unserviceable firearm (other than a machine gun) being imported as a curio or museum piece, a description of how it was rendered unserviceable and an explanation of why it is a curio or museum piece, or (iv) if a firearm other than a surplus military firearm, of a type that does not fall within the definition of a firearm under section 5845(a) of the Internal Revenue Code of 1986 and is for sporting purposes, an explanation of why the firearm is generally recognized as particularly suitable for or readily adaptable to sporting purposes, or (v) if ammunition being imported for sporting purposes, a statement why the ammunition is generally recognized as particularly suitable for or readily adaptable to sporting purposes; or (vi) if a firearm barrel, and is for a handgun, an explanation why the handgun is generally recognized as particularly suitable for or readily adaptable to sporting purposes. If the Director approves the application, such approved application shall serve as the permit to import the firearm, firearm barrel or ammunition described therein. The Director shall furnish the approved application (permit) to the applicant and retain two copies thereof for administrative use. If the Director disapproves the application, the applicant shall be notified of the basis for the disapproval.

(c) A firearm, firearm barrel, or ammunition imported or brought into the United States or a possession thereof under the provisions of this section may be released from Customs custody to the licensee importing the firearm, firearm barrel, or ammunition upon showing that the licensee has obtained a permit from the Director for the importation. In obtaining the release of the firearm, firearm barrel, or ammunition from Customs custody, the licensee importing same shall furnish ATF Form 6A to the Customs officer releasing the firearm, firearm barrel, or ammunition. The Customs officer shall, after certification, forward the ATF Form 6A to the address specified on the form. The ATF Form 6A shall show the name, address, and the license number of the licensee, the name of the manufacturer, the country of manufacture, and the type, model, and caliber, size (if ammunition) or gauge of the firearm, firearm barrel or ammunition so released, and, if applicable, the number of firearms, firearm barrels, or rounds of ammunition released.

Par. 47. Section 178.113a is added to read as follows:

§ 178.113a Importation of firearm barrels by nonlicensees.

(a) A permit will not be issued for a firearm barrel for a handgun not generally recognized as particularly suitable for or readily adaptable to sporting purposes. No firearm barrel shall be imported or brought into the United States or possession thereof by any nonlicensee unless the Director issues a permit authorizing the importation of the firearm barrel.

(b) An application for a permit, ATF Form 6, to import or bring a firearm barrel into the United States or a possession thereof under this section shall be filed, in triplicate, with the Director. The application shall contain (1) the name and address of the applicant, (2) a description of the firearm barrel to be imported, including type (e.g.; rifle, shotgun, pistol, revolver), model, caliber, size or gauge, barrel length, country of manufacture, and name of the manufacturer, (3) the unit

cost of the firearm barrel, (4) the name and address of the foreign seller and the foreign shipper, (5) the country from which the firearm barrel is to be imported, and (6) if a handgun barrel, an explanation of why the barrel is for a handgun that is generally recognized as particularly suitable for or readily adaptable to sporting purposes. If the Director approves the application, such approved application shall serve as the permit to import the firearm barrel. The Director shall furnish the approved application (permit) to the applicant and retain two copies thereof for administrative use. If the Director disapproves the application, the applicant shall be notified of the basis for the disapproval.

(c) A firearm barrel imported or brought into the United States or a possession thereof under the provisions of this section may be released from Customs custody to the person importing the firearm barrel upon showing that the person has obtained a permit from the Director for the importation. In obtaining the release of the firearm barrel from Customs custody, the person importing same shall furnish ATF Form 6A to the Customs officer releasing the firearm barrel. The Customs officer shall, after certification, forward the ATF Form 6A to the address specified on the form. The ATF Form 6A shall show the name and address of the person importing the firearm barrel, the name of the manufacturer, the country of manufacture, and the type, model, and caliber or gauge of the firearm barrel so released, and, if applicable, the number of firearm barrels released.

Par. 48. Section 178.114 is revised to read as follows:

§ 178.114 Importation by members of the U.S. Armed Forces.

(a) The Director may issue a permit authorizing the importation of a firearm or ammunition into the United States to the place of residence of any military member of the U.S. Armed Forces who is on active duty outside the United States, or who has been on active duty outside the United States within the 60-day period immediately preceding the intended importation: *Provided*, That such firearm or ammunition is generally recognized as particularly suitable for or readily adaptable to sporting purposes and is intended for the personal use of such member. An application for such a permit, ATF Form 6, shall be filed, in triplicate, with the Director. The application shall contain (1) the name and current address of the applicant, (2) certification that the transportation, receipt, or possession of the firearm or ammunition to be imported would not constitute a violation of any provision of the Act or of any State law or local ordinance at the place of the applicant's residence, (3) a description of the firearm or ammunition to be imported, including type (e.g.; rifle, shotgun, pistol, revolver; and in the case of ammunition only, ball, wadcutter), model, caliber, size or gauge, barrel length (if a firearm), country of manufacture, and the name of the manufacturer, (4) the unit cost of the firearm or ammunition to be imported, (5) the name and address of the foreign seller (if applicable) and the foreign shipper, (6) the country from which the firearm or ammunition is to be imported, (7)(i) that the firearm or ammunition being imported is for the personal use of the applicant, and (ii) if a firearm, a statement that it is not a surplus military firearm, that it does not fall within the definition of a firearm under section 5845(a) of the Internal Revenue Code of 1986, and an explanation of why the firearm is generally recognized as particularly suitable for or readily adaptable to sporting purposes, or (iii) if ammunition, a statement why it is generally recognized as particularly suitable for or readily adaptable to sporting purposes, and (8) the applicant's date of birth, rank or grade, place of residence, present foreign duty station or last foreign duty station, as the case may be, the date of the applicant's reassignment to a duty station within the United States, if applicable, and the military branch of which the applicant is a member. If the Director approves the application, such approved application shall serve as the permit to import the firearm or ammunition described therein. The Director shall furnish the approved application (permit) to the applicant and shall retain the two copies thereof for administrative purposes. If the Director disapproves the application, the applicant shall be notified of the basis for the disapproval.

(b) Upon receipt of an approved application (permit) to import the firearm or ammunition, the applicant may obtain the release of same from Customs custody upon showing that the applicant has obtained a permit from the Director for the importation. In obtaining the release of the firearm or ammunition from Customs custody, the military member of the U.S. Armed Forces importing same shall furnish ATF Form 6A to the Customs officer releasing the firearm or ammunition. The Customs officer shall, after certification, forward the ATF Form 6A to the address specified on the form. The ATF Form 6A shall show the name and address of such military member, the name of the manufacturer, the country of manufacture, and the type, model, and caliber, size or gauge of the firearm or ammunition so released, and, if applicable, the number of firearms or rounds of ammunition released. However, when such military member is on active duty outside the United States, the military member may appoint, in writing, an agent to obtain the release of the firearm or ammunition from Customs custody for such member. Such agent shall present sufficient identification of the agent and the written authorization to act on behalf of such military member to the Customs officer who is to release the firearm or ammunition.

(c) Firearms determined by the Department of Defense to be war souvenirs may be imported into the United States by the military members of the U.S. Armed Forces under such provisions and procedures as the Department of Defense may issue.

Par. 49. Section 178.115(b) is revised to read as follows:

§ 178.115 Exempt importation.

* * * * *

(b) Firearms, firearm barrels, and ammunition may be imported or brought into the United States by or for the United States or any department or agency thereof, or any State or any department, agency, or political subdivision thereof. A firearm, firearm barrel or ammunition imported or brought into the United States under this paragraph may be released from Customs custody upon a showing that the firearm, firearm barrel or ammunition is being imported or brought into the United States by or for such a governmental entity.

* * * * *

Par. 50. Section 178.116 is revised to read as follows:

§ 178.116 Conditional importation.

The Director shall permit the conditional importation or bringing into the United States or any possession thereof of any firearm, firearm barrel, or ammunition for the purpose of examining and testing the firearm, firearm barrel, or ammunition in connection with making a determination as to whether the importation or bringing in of such firearm, firearm barrel, or ammunition will be authorized under this part. An application on ATF Form 6 for such conditional importation shall be filed, in duplicate, with the Director. The Director may impose conditions upon any importation under this section including a requirement that the firearm, firearm barrel, or

ammunition be shipped directly from Customs custody to the Director and that the person importing or bringing in the firearm, firearm barrel, or ammunition must agree to either export the firearm, firearm barrel, or ammunition or destroy same if a determination is made that the firearm, firearm barrel, or ammunition may not be imported or brought in under this part. A firearm, firearm barrel, or ammunition imported or brought into the United States or any possession thereof under the provision of this section shall be released from Customs custody upon the payment of customs duties, if applicable, and in the manner prescribed in the conditional authorization issued by the Director.

Par. 51. Section 178.121 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 178.121 General.

(a) The records pertaining to firearms transactions prescribed by this part shall be retained on the licensed premises in the manner prescribed by this subpart and for the length of time prescribed by § 178.129. The records pertaining to ammunition prescribed by this part shall be retained on the licensed premises in the manner prescribed by § 178.125.

(b) ATF officers may, for the purposes and under the conditions prescribed in § 178.23, enter the premises of any licensed importer, licensed manufacturer, licensed dealer, or licensed collector for the purpose of examining or inspecting any record or document required by or obtained under this part. Section 923(g) of the Act requires licensed importers, licensed manufacturers, licensed dealers, and licensed collectors to make such records available for such examination or inspection during business hours or, in the case of licensed collectors, hours of operation, as provided in § 178.23.

(c) Each licensed importer, licensed manufacturer, licensed dealer, and licensed collector shall maintain such records of importation, production, shipment, receipt, sale, or other disposition, whether temporary or permanent, of firearms and such records of the disposition of ammunition as the regulations contained in this part prescribe. Section 922(m) of the Act makes it unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector knowingly to make any false entry in, to fail to make appropriate entry in, or to fail to properly maintain any such record.

* * * * *

Par. 52. Section 178.122 is revised to read as follows:

§ 178.122 Records maintained by importers.

(a) Each licensed importer shall, within 15 days of the date of importation or other acquisition, record the type, model, caliber or gauge, manufacturer, country of manufacture, and the serial number of each firearm imported or otherwise acquired, and the date such importation or other acquisition was made.

(b) A record of firearms disposed of by a licensed importer to another licensee and a separate record of armor piercing ammunition dispositions to governmental entities, for exportation, or for testing or experimentation authorized under the provisions of § 178.149 shall be maintained by the licensed importer on the licensed premises. For firearms, the record shall show the quantity, type, manufacturer, country of manufacture, caliber or gauge, model, serial number of the firearms so transferred, the name and license number of the licensee to whom the firearms were transferred, and the date of the transaction. For armor piercing ammunition, the record shall show the date of the transaction, manufacturer, caliber or gauge, quantity of projectiles, and the name and address of the purchaser. The information required by this paragraph shall be entered in the proper record book not later than the seventh day following the date of the transaction, and such information shall be recorded under the following formats:

IMPORTER'S FIREARMS DISPOSITION RECORD

Quantity	Type	Manufacturer	Country of manufacture	Caliber or gauge	Model	Serial No.	Name and license No. of licensee to whom transferred	Date of the transaction

IMPORTER'S ARMOR PIERCING AMMUNITION DISPOSITION RECORD

Date	Manufacturer	Calibur or gauge	Quantity of projectiles	Purchaser—Name and address

(c) Notwithstanding the provisions of paragraph (b) of this section, the regional director (compliance) may authorize alternate records to be maintained by a licensed importer to record the disposal of firearms and armor piercing ammunition when it is shown by the licensed importer that such alternate records will accurately and readily disclose the information required by paragraph (b) of this section. A licensed importer who proposes to use alternate records shall submit a letter application, in duplicate, to the regional director (compliance) and shall describe the proposed alternate records and the need therefor. Such alternate records shall not be employed by the licensed importer until approval in such regard is received from the regional director (compliance).

(d) Each licensed importer shall maintain separate records of the sales or other dispositions made of firearms to nonlicensees. Such records shall be maintained in the form and manner as prescribed by §§ 178.124 and 178.125 in regard to firearms transaction records and records of acquisition and disposition of firearms.

(Approved by the Office of Management and Budget under control number 1512-0387)

Par. 53. Section 178.123 is revised to read as follows:

§ 178.123 Records maintained by manufacturers.

(a) Each licensed manufacturer shall record the type, model, caliber or gauge, and serial number of each complete firearm manufactured or otherwise acquired, and the date such manufacture or other acquisition was made. The information required by this paragraph shall be recorded not later than the seventh day following the date such manufacture or other acquisition was made.

(b) A record of firearms disposed of by a manufacturer to another licensee and a separate record of armor piercing ammunition dispositions to governmental entities, for exportation, or for testing or experimentation authorized under the provision of § 178.149 shall be maintained by the licensed manufacturer on the licensed premises. For firearms, the record shall show the quantity, type, model,

manufacturer, caliber, size or gauge, serial number of the firearms so transferred, the name and license number of the licensee to whom the firearms were transferred, and the date of the transaction. For armor piercing ammunition, the record shall show the manufacturer, caliber or gauge, quantity, the name and address of the transferee to whom the armor piercing ammunition was transferred, and the date of the transaction. The information required by this paragraph shall be entered in the proper record book not later than the seventh day following the date of the transaction, and such information shall be recorded under the format prescribed by § 178.122, except that the name of the manufacturer of a firearm or armor piercing ammunition need not be recorded if the firearm or armor piercing ammunition is of the manufacturer's own manufacture.

(c) Notwithstanding the provisions of paragraph (b) of this section, the regional director (compliance) may authorize alternate records to be maintained by a licensed manufacturer to record the disposal of firearms and armor piercing ammunition when it is shown by the licensed manufacturer that such alternate records will accurately and readily disclose the information required by paragraph (b) of this section. A licensed manufacturer who proposes to use alternate records shall submit a letter application, in duplicate, to the regional director (compliance) and shall describe the proposed alternate record and the need therefor. Such alternate records shall not be employed by the licensed manufacturer until approval in such regard is received from the regional director (compliance).

(d) Each licensed manufacturer shall maintain separate records of the sales or other dispositions made of firearms to nonlicensees. Such records shall be maintained in the form and manner as prescribed by §§ 178.124 and 178.125 in regard to firearms transaction records and records of acquisition and disposition of firearms.

(Approved by the Office of Management and Budget under control number 1512–0369)

Par. 54. Section 178.124 is amended by revising paragraphs (a)–(f) and (i) to read as follows:

§ 178.124 Firearms transaction record.

(a) A licensed importer, licensed manufacturer, or licensed dealer shall not sell or otherwise dispose, temporarily or permanently, of any firearm to any person, other than another licensee, unless the licensee records the transaction on a firearms transaction record, Form 4473: *Provided,* That a firearms transaction record, Form 4473, shall not be required to record the disposition made of a firearm delivered to a licensee for the sole purpose of repair or customizing when such firearm or a replacement firearm is returned to the person from whom received.

(b) A licensed manufacturer, licensed importer, or licensed dealer shall retain in alphabetical (by name of purchaser), chronological (by date of disposition), or numerical (by transaction serial number) order, and as a part of the required records, each Form 4473 obtained in the course of transferring custody of the firearms.

(c) Prior to making an over-the-counter transfer of a firearm to a nonlicensee who is a resident of the State in which the licensee's business premises is located, the licensed importer, licensed manufacturer, or licensed dealer so transferring the firearm shall obtain a Form 4473 from the transferee showing the name, address (including county or similar political subdivision), date and place of birth, height, weight, and race of the transferee, and certification by the transferee that the transferee is not prohibited by the Act from transporting or shipping a firearm in interstate or foreign commerce or receiving a firearm which has been shipped or transported in interstate or foreign commerce or possessing a firearm in or affecting commerce. The licensee shall identify the firearm to be transferred by listing in the Form 4473 the name of the manufacturer, the name of the importer (if any), the type, model, caliber or gauge, and the serial number of the firearm. Before transferring the firearm described in the Form 4473, the licensee:

(1) Shall cause the transferee to be identified in any manner customarily used in commercial transactions (e.g., a driver's license), and shall note on the form the method used, and

(2) If the licensee does not know or have reasonable cause to believe that the transferee is disqualified by law from receiving the firearm, shall sign and date the form.

(d) Prior to making an over-the-counter transfer of a shotgun or rifle under the provisions contained in § 178.96(c) to a nonlicensee who is not a resident of the State in which the licensee's business premises is located, the licensee so transferring the shotgun or rifle, and such transferee, shall comply with the requirements of paragraph (c) of this section.

(e) Prior to making a transfer of a firearm to any nonlicensee who is not a resident of the State in which the licensee's business premises is located, and such nonlicensee is acquiring the firearm by loan or rental from the licensee for temporary use for lawful sporting purposes, the licensed importer, licensed manufacturer, or licensed dealer so furnishing the firearm, and such transferee, shall comply with the provisions of paragraph (c) of this section.

(f) Form 4473 shall be submitted, in duplicate, to a licensed importer, licensed manufacturer, or licensed dealer by a transferee who is purchasing or otherwise acquiring a firearm by other than an over-the-counter transaction, and who is a resident of the State in which the licensee's business premises is located. The Form 4473 shall show the name, address, date and place of birth, height, weight, and race of the transferee; and the title, name, and address of the principal law enforcement officer of the locality to which the firearm will be delivered. The transferee also must date and execute the sworn statement contained on the form showing that, in case the firearm to be transferred is a firearm other than a shotgun or rifle, the transferee is 21 years or more of age; that, in case the firearm to be transferred is a shotgun or rifle, the tranferee is 18 years or more of age; that the transferee is not prohibited by the provisions of the Act from shipping or transporting a firearm in interstate or foreign commerce or receiving a firearm which has been shipped or transported in interstate or foreign commerce or possessing a firearm in or affecting commerce; and that the transferee's receipt of the firearm would not be in violation of any statute of the State or published ordinance applicable to the locality in which the transferee resides. Upon receipt of such Forms 4473, the licensee shall identify the firearm to be transferred by listing in the Forms 4473 the name of the manufacturer, the name of the importer (if any), the type, model, caliber or gauge, and the serial number of the firearm to be transferred. The licensee shall prior to shipment or delivery of the firearm to such transferee, forward by registered or certified mail (return receipt requested) a copy of the Form 4473 to the principal law enforcement officer named in the Form 4473 by the transferee, and shall delay shipment or delivery of the firearm to the transferee for a period of at least 7 days following receipt by the licensee of the return receipt evidencing delivery of the copy of the Form 4473 to such principal law enforcement officer, or the return of the copy of the Form 4473 to the licensee due to the refusal of such principal law enforcement officer

to accept same in accordance with U.S. Postal Service regulations. The original Form 4473, and evidence of receipt or rejection of delivery of the copy of the Form 4473 sent to the principal law enforcement officer, shall be retained by the licensee as a part of the records required to be kept under this subpart.

* * * * *

(i) A licensee may obtain, upon request, an emergency supply of Forms 4473 from any regional director (compliance). For normal usage, a licensee should request a year's supply from the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153.

Par. 55. Section 178.125 is revised to read as follows:

§ 178.125 Record of receipt and disposition.

(a) *Armor piercing ammunition sales by licensed collectors to nonlicensees.* The sale or other disposition of armor piercing ammunition by licensed collectors shall be recorded in a bound record at the time a transaction is made. The bound record shall be maintained in chronological order by date of sale or disposition of the armor piercing ammunition, and shall be retained on the licensed premises of the licensee for a period not less than two years following the date of the recorded sale or disposition of the armor piercing ammunition. The bound record entry shall show:

(1) The date of the transaction;

(2) The name of the manufacturer;

(3) The caliber or gauge;

(4) The quantity of projectiles;

(5) The name, address, and date of birth of the nonlicensee; and

(6) The method used to establish the identity of the armor piercing ammunition purchaser.

The format required for the bound record is as follows:

DISPOSITION RECORD OF ARMOR PIERCING AMMUNITION

Date	Manufacturer	Caliber or gauge	Quantity of projectiles	Purchaser		Enter a (x) in the "known" column if purchaser is personally known to you. Otherwise, establish the purchaser's identification		
				Name and address	Date of birth	Known	Driver's license	Other type (specify)

However, when a commercial record is made at the time a transaction is made, a licensee may delay making an entry into the bound record if the provisions of paragraph (d) of this section are complied with.

(b) *Armor piercing ammunition sales by licensed collectors to licensees.* Sales or other dispositions of armor piercing ammunition from a licensed collector to another licensee shall be recorded and maintained in the manner prescribed in § 178.122(b) for importers: *Provided,* That the license number of the transferee may be recorded in lieu of the transferee's address.

(c) *Armor piercing ammunition sales by licensed dealers to governmental entities.* A record of armor piercing ammunition disposed of by a licensed dealer to a governmental entity pursuant to § 178.99(e) shall be maintained by the licensed dealer on the licensed premises and shall show the name of the manufacturer, the caliber or gauge, the quantity, the name and address of the entity to which the armor piercing ammunition was transferred, and the date of the transaction. Such information shall be recorded under the format prescribed by § 178.122(b). Each licensed dealer disposing of armor piercing ammunition pursuant to § 178.99(e) shall also maintain a record showing the date of acquisition of such ammunition which shall be filed in an orderly manner separate from other commercial records maintained and be readily available for inspection. The records required by this paragraph shall be retained on the licensed premises of the licensee for a period not less than two years following the date of the recorded sale or disposition of the armor piercing ammunition.

(d) *Commercial records of armor piercing ammunition transactions.* When a commercial record is made at the time of sale or other disposition of armor piercing ammunition, and such record contains all information required by the bound record prescribed by paragraph (a) of this section, the licensed collector transferring the armor piercing ammunition may, for a period not exceeding 7 days following the date of such transfer, delay making the required entry into such bound record: *Provided,* That the commercial record pertaining to the transfer is:

(1) Maintained by the licensed collector separate from other commercial documents maintained by such licensee, and

(2) Is readily available for inspection on the licensed premises until such time as the required entry into the bound record is made.

(e) *Firearms receipt and disposition by licensed dealers.* Each licensed dealer shall enter into a record each receipt and disposition of firearms. In addition, before commencing or continuing a firearms business, each licensed dealer shall inventory the firearms possessed for such business and shall record same in the record required by this paragraph. The record required by this paragraph shall be maintained in bound form under the format prescribed below. The purchase or other acquisition of a firearm shall, except as provided in paragraph (g) of this section, be recorded not later than the close of the next business day following the date of such purchase or acquisition. The record shall show the date of receipt, the name and address or the name and license number of the person from whom received, the name of the manufacturer and importer (if any), the model, serial number, type, and the caliber or gauge of the firearm. The sale or other disposition of a firearm shall be recorded by the licensed dealer not later than 7 days following the date of such transaction. When such disposition is made to a nonlicensee, the firearms transaction record, Form 4473, obtained by the licensed dealer shall be retained, until the transaction is recorded, separate from the licensee's Form 4473 file and be readily available for inspection. When such disposition is made to a licensee, the commercial record of the transaction shall be retained, until the transaction is recorded, separate from other commercial documents maintained by the licensed dealer, and be readily available for inspection. The record shall show the date of the sale or other disposition of each firearm, the name and address of the person to whom the firearm is transferred, or the name and license number of the person to whom transferred if such person is a licensee, or the firearms transaction record, Form 4473, serial number if the licensed dealer

transferring the firearm serially numbers the Forms 4473 and files them numerically. The format required for the record of receipt and disposition of firearms is as follows:

FIREARMS ACQUISITION AND DISPOSITION RECORD

Description of firearm					Receipt		Disposition		
Manufacturer and/or Importer	Model	Serial No.	Type	Caliber or gauge	Date	Name and address or name and license No.	Date	Name	Address or license No. if licensee, or Form 4473 Serial No. if Forms 4473 filed numerically

(f) *Firearms receipt and disposition by licensed collectors.* Each licensed collector shall enter into a record each receipt and disposition of firearms curios or relics. In addition, before commencing or continuing a firearms curio or relic collection, each licensed collector shall inventory the curios or relics possessed in such collection and shall record same in the record required by this paragraph. The record required by this paragraph shall be maintained in bound form under the format prescribed below. The purchase or other acquisition of a curio or relic shall, except as provided in paragraph (g) of this section, be recorded not later than the close of the next business day following the date of such purchase or other acquisition. The record shall show the date of receipt, the name and address or the name and license number of the person from whom received, the name of the manufacturer and importer (if any), the model, serial number, type, and the caliber or gauge of the firearm curio or relic. The sale or other disposition of a curio or relic shall be recorded by the licensed collector not later than 7 days following the date of such transaction. When such disposition is made to a licensee, the commercial record of the transaction shall be retained, until the transaction is recorded, separate from other commercial documents maintained by the licensee, and be readily available for inspection. The record shall show the date of the sale or other disposition of each firearm curio or relic, the name and address of the person to whom the firearm curio or relic is transferred, or the name and license number of the person to whom transferred if such person is a licensee, and the date of birth of the transferee if other than a licensee. In addition, the licensee shall cause the transferee, if other than a licensee, to be identified in any manner customarily used in commercial transactions (e.g., a driver's license), and shall note on the record the method used.

FIREARMS COLLECTORS ACQUISITION AND DISPOSITION RECORD

Description of firearm					Receipt		Disposition			
Manufacturer and/or Importer	Model	Serial No.	Type	Caliber or gauge	Date	Name and address or name and license No.	Date	Name and address or name and license No.	Date of birth if nonlicensee	Driver's license No. or other identification if nonlicensee

(g) *Commercial records of firearms received.* When a commercial record is held by a licensed dealer or licensed collector showing the acquisition of a firearm or firearm curio or relic, and such record contains all acquisition information required by the bound record prescribed by paragraphs (e) and (f) of this section, the licensed dealer or licensed collector acquiring such firearm or curio or relic, may, for a period not exceeding 7 days following the date of such acquisition, delay making the required entry into such bound record: *Provided,* That the commercial record is, until such time as the required entry into the bound record is made, (1) maintained by the licensed dealer or licensed collector separate from other commercial documents maintained by such licensee, and (2) readily available for inspection on the licensed premises: *Provided further,* That when disposition is made of a firearm or firearm curio or relic not entered in the bound record under the provisions of this paragraph, the licensed dealer or licensed collector making such disposition shall enter all required acquisition information regarding the firearm or firearm curio or relic in the bound record at the time such transfer or disposition is made.

(h) *Alternate records.* Notwithstanding the provisions of paragraphs (a), (e), and (f) of this section, the regional director (compliance) may authorize alternate records to be maintained by a licensed dealer or licensed collector to record the acquisition and disposition of firearms or curios or relics and the disposition of armor piercing ammunition when it is shown by the licensed dealer or the licensed collector that such alternate records will accurately and readily disclose the required information. A licensed dealer or licensed collector who proposes to use alternate records shall submit a letter application, in duplicate, to the regional director (compliance) and shall describe the proposed alternate records and the need therefor. Such alternate records shall not be employed by the licensed dealer or licensed collector until approval in such regard is received from the regional director (compliance).

(i) *Requirements for importers and manufacturers.* Each licensed importer and licensed manufacturer selling or otherwise disposing of firearms or armor piercing ammunition to nonlicensees shall maintain such records of such transactions as are required of licensed dealers by this section.

(Approved by the Office of Management and Budget under control number 1512-0387)

Par. 56. Section 178.125a is added to read as follows:

§ 178.125a Personal firearms collection.

(a) Notwithstanding any other provision of this subpart, a licensed manufacturer, licensed importer, or licensed dealer is not required to record on a firearms transaction record, Form 4473, the sale or other disposition of a firearm maintained as part of the licensee's personal firearms collection: *Provided,* That (1) the licensee has

maintained the firearm as part of such collection for 1 year from the date the firearm was transferred from the business inventory into the personal collection or otherwise acquired as a personal firearm, (2) the licensee recorded in the bound record prescribed by § 178.125(e) the receipt of the firearm into the business inventory or other acquisition, (3) the licensee recorded the firearm as a disposition in the bound record prescribed by § 178.125(e) when the firearm was transferred from the business inventory into the personal firearms collection or otherwise acquired as a personal firearm, and (4) the licensee enters the sale or other disposition of the firearm from the personal firearms collection into a bound record, under the format prescribed below, identifying the firearm transferred by recording the name of the manufacturer and importer (if any), the model, serial number, type, and the caliber or gauge, and showing the date of the sale or other disposition, the name and address of the transferee, or the name and license number of the transferee if such person is a licensee, and the date of birth of the transferee if other than a licensee. In addition, the licensee shall cause the transferee, if other than a licensee, to be identified in any manner customarily used in commercial transactions (e.g., a drivers license), and shall note on the record the method used. The format required for the disposition record of personal firearms is as follows:

DISPOSITION RECORD OF PERSONAL FIREARMS

Description of firearm					Disposition			
Manufacturer and/or importer	Model	Serial No.	Type	Caliber or gauge	Date	Name and address or name and license No.	Date of birth if nonlicensee	Driver's license No. or other identification if nonlicensee

(b) Any licensed manufacturer, licensed importer, or licensed dealer selling or otherwise disposing of a firearm from the licensee's personal firearms collection under this section shall be subject to the restrictions imposed by the Act and this part on the dispositions of firearms by persons other than licensed manufacturers, licensed importers, and licensed dealers.

(Approved by the Office of Management and Budget under control number 1512-0387)

Par. 57. Section 178.126a is amended by revising the first sentence of the section to read as follows:

§ 178.126a Reporting multiple sales or other dispositions of pistols and revolvers.

Each licensee shall prepare a report of multiple sales or other disposition whenever the licensee sells or otherwise disposes of, at one time or during any five consecutive business days, two or more pistols, or revolvers, or any combination of pistols and revolvers totaling two or more, to an unlicensed person: *Provided,* That a report need not be made where pistols or revolvers, or any combination thereof, are returned to the same person from whom they were received.

* * * * *

Par. 58. Section 178.127 is revised to read as follows:

§ 178.127 Discontinuance of business.

Where a firearms or ammunition business is discontinued and succeeded by a new licensee, the records prescribed by this subpart shall appropriately reflect such facts and shall be delivered to the successor. Where discontinuance of the business is absolute, the records prescribed by this subpart shall be delivered within 30 days following the business discontinuance to the regional director (compliance) for the region in which the business was located, any other ATF office located in that region, or the ATF Firearms Out-of-Business Records Center, 3361 75th Avenue, Landover, Maryland 20785: *Provided, however,* Where State law or local ordinance requires the delivery of records to other responsible authority, the regional director (compliance) may arrange for the delivery of the records required by this subpart to such authority.

Par. 59. Section 178.128 is revised to read as follows:

§ 178.128 False statement or representation.

(a) Any person who knowingly makes any false statement or representation in applying for any license or exemption or relief from disability, under the provisions of the Act, shall be fined not more than $5,000 or imprisoned not more than 5 years, or both.

(b) Any person other than a licensed manufacturer, licensed importer, licensed dealer, or licensed collector who knowingly makes any false statement or representation with respect to any information required by the provisions of the Act or this part to be kept in the records of a person licensed under the Act or this part shall be fined not more than $5,000 or imprisoned not more than 5 years, or both.

(c) Any licensed manufacturer, licensed importer, licensed dealer, or licensed collector who knowingly makes any false statement or representation with respect to any information required by the provisions of the Act or this part to be kept in the records of a person licensed under the Act or this part shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.

Par. 60. Section 178.141(d) is revised to read as follows:

§ 178.141 General.

* * * * *

(d) The transportation, shipment, receipt, possession, or importation of any antique firearm.

Par. 61. Section 178.142 is revised to read as follows:

§ 178.142 Effect of pardons and expunctions of convictions.

(a) A pardon granted by the President of the United States regarding a Federal conviction for a crime punishable by imprisonment for a term exceeding 1 year shall remove any disability which otherwise would be imposed by the provisions of this part with respect to that conviction.

(b) A pardon granted by the Governor of a State or other State pardoning authority or by the pardoning authority of a foreign jurisdiction with respect to a conviction, or any expunction, reversal, setting aside of a conviction, or other proceeding rendering a conviction nugatory, or a restoration of civil rights shall remove any disability which otherwise would be imposed by the provisions of this part with respect to the conviction, unless:

(1) The pardon, expunction, setting aside, or other proceeding rendering a conviction nugatory, or restoration of civil rights expressly provides that the person may not ship, transport, possess or receive firearms; or

(2) The pardon, expunction, setting aside, or other proceeding rendering a conviction nugatory, or restoration of civil rights did not fully restore the rights of the person to possess or receive firearms under the law of the jurisdiction where the conviction occurred.

Par. 62. Section 178.144 is revised to read as follows:

§ 178.144 Relief from disabilities under the Act.

(a) Any person may make application for relief from the disabilities under section 922 (g) and (n) of the Act (see § 178.32).

(b) An application for such relief shall be filed, in triplicate, with the Director. It shall include the information required by this section and such other supporting data as the Director and the applicant deem appropriate.

(c) Any record or document of a court or other government entity or official required by this paragraph to be furnished by an applicant in support of an application for relief shall be certified by the court or other government entity or official as a true copy. An application shall include:

(1) In the case of an applicant who is an individual, a written statement from each of 3 references, who are not related to the applicant by blood or marriage and have known the applicant for at least 3 years, recommending the granting of relief;

(2) Written consent to examine and obtain copies of records and to receive statements and information regarding the applicant's background, including records, statements and other information concerning employment, medical history, military service, and criminal record;

(3) In the case of an applicant under indictment, a copy of the indictment or information;

(4) In the case of an applicant having been convicted of a crime punishable by imprisonment for a term exceeding 1 year, a copy of the indictment or information on which the applicant was convicted, the judgment of conviction or record of any plea of nolo contendere or plea of guilty or finding of guilt by the court, and any pardon, expunction, setting aside or other record purporting to show that the conviction was rendered nugatory or that civil rights were restored;

(5) In the case of an applicant who has been adjudicated a mental defective or committed to a mental institution, a copy of the order of a court, board, commission, or other lawful authority that made the adjudication or ordered the commitment, any petition that sought to have the applicant so adjudicated or committed, any medical records reflecting the reasons for commitment and diagnoses of the applicant, and any court order or finding of a court, board, commission, or other lawful authority showing the applicant's discharge from commitment, restoration of mental competency and the restoration of rights;

(6) In the case of an applicant who has been discharged from the Armed Forces under dishonorable conditions, a copy of the applicant's summary of service record (Department of Defense Form 214), charge sheet (Department of Defense Form 458), and final court martial order; and

(7) In the case of an applicant who, having been a citizen of the United States, has renounced his or her citizenship, a copy of the formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign state or before an officer designated by the Attorney General when the United States was in a state of war (see 8 U.S.C. 1481(a) (5) and (6)).

(d) The Director may grant relief to an applicant if it is established to the satisfaction of the Director that the circumstances regarding the disability, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest. The Director will not ordinarily grant relief if the applicant has not been discharged from parole or probation for a period of at least 2 years. Relief will not be granted to an applicant who is prohibited from possessing all types of firearms by the law of the State where such applicant resides.

(e) In addition to meeting the requirements of paragraph (d) of this section, an applicant who has been adjudicated a mental defective or committed to a mental institution will not be granted relief unless the applicant was subsequently determined by a court, board, commission, or other lawful authority to have been restored to mental competency, to be no longer suffering from a mental disorder, and to have had all rights restored.

(f) Upon receipt of an incomplete or improperly executed application for relief, the applicant shall be notified of the deficiency in the application. If the application is not corrected and returned within 30 days following the date of notification, the application shall be considered as having been abandoned.

(g) Whenever the Director grants relief to any person pursuant to this section, a notice of such action shall be promptly published in the **Federal Register**, together with the reasons therefor.

(h) A person who has been granted relief under this section shall be relieved of any disabilities imposed by the Act with respect to the acquisition, receipt, transfer, shipment, transportation, or possession of firearms or ammunition and incurred by reason of such disability.

(i)(1) A licensee who is convicted of a crime punishable by imprisonment for a term exceeding 1 year during the term of a current license or while the licensee has pending a license renewal application, and who files an application for removal of disabilities resulting from such conviction, shall not be barred from licensed operations for 30 days after the date upon which the conviction becomes final, and if the licensee files the application for relief as provided by this section within such 30-day period, the licensee may further continue licensed operations during the pendency of the application. A licensee who does not file such application within 30 days from the date the conviction becomes final shall not continue licensed operations beyond 30 days from the date the conviction becomes final.

(2) In the event the term of a license of a person expires during the 30-day period following the date upon which the conviction becomes final or during the pendency of the application for relief, a timely application for renewal of the license must be filed in order to continue licensed operations. Such license application shall show that the applicant has been convicted of a crime punishable by imprisonment for a term exceeding 1 year.

(3) A licensee shall not continue licensed operations beyond 30 days following the date the Director issues notification that the licensee's application for removal of disabilities resulting from a conviction has been denied.

(4) When as provided in this section a licensee may no longer continue licensed operations, any application for renewal of license filed by the licensee during the term of the indictment or the pendency of the application for removal of disabilities resulting from such conviction shall be denied by the regional director (compliance).

Par. 63. Section 178.145 is revised to read as follows:

§ 178.145 Research organizations.

The provisions of § 178.98 with respect to the sale or delivery of

destructive devices, machine guns, short-barreled shotguns, and short-barreled rifles shall not apply to the sale or delivery of such devices and weapons to any research organization designated by the Director to receive same. A research organization desiring such designation shall submit a letter application, in duplicate, to the Director. Such application shall contain the name and address of the research organization, the names and addresses of the persons directing or controlling, directly or indirectly, the policies and management of such organization, the nature and purpose of the research being conducted, a description of the devices and weapons to be received, and the identity of the person or persons from whom such devices and weapons are to be received.

Par. 64. Section 178.147 is revised to read as follows:

§ 178.147 Return of firearm.

A person not otherwise prohibited by Federal, State or local law may ship a firearm to a licensed importer, licensed manufacturer, or licensed dealer for any lawful purpose, and, notwithstanding any other provision of this part, the licensed manufacturer, licensed importer, or licensed dealer may return in interstate or foreign commerce to that person the firearm or a replacement firearm of the same kind and type. See § 178.124(a) for requirements of a Form 4473 prior to return. A person not otherwise prohibited by Federal, State or local law may ship a firearm curio or relic to a licensed collector for any lawful purpose, and, notwithstanding any other provision of this part, the licensed collector may return in interstate or foreign commerce to that person the firearm curio or relic.

Par. 65. Section 178.148 is revised to read as follows:

§ 178.148 Armor piercing ammunition intended for sporting or industrial purposes.

The Director may exempt certain armor piercing ammunition from the requirements of this part. A person who desires to obtain an exemption under this section for any such ammunition which is primarily intended for sporting purposes or intended for industrial purposes, including charges used in oil and gas well perforating devices, shall submit a written request to the Director. Each request shall be executed under the penalties of perjury and contain a complete and accurate description of the ammunition, the name and address of the manufacturer or importer, the purpose of and use for which it is designed and intended, and any photographs, diagrams, or drawings as may be necessary to enable the Director to make a determination. The Director may require that a sample of the ammunition be submitted for examination and evaluation.

Par. 66. Section 178.149 is revised to read as follows:

§ 178.149 Armor piercing ammunition manufactured or imported for the purpose of testing or experimentation.

The provisions of §§ 178.37 and 178.99(d) with respect to the manufacture or importation of armor piercing ammunition and the sale or delivery of armor piercing ammunition by manufacturers and importers shall not apply to the manufacture, importation, sale or delivery of armor piercing ammunition for the purpose of testing or experimentation as authorized by the Director. A person desiring such authorization to receive armor piercing ammunition shall submit a letter application, in duplicate, to the Director. Such application shall contain the name and addresses of the persons directing or controlling, directly or indirectly, the policies and management of the applicant, the nature or purpose of the testing or experimentation, a description of the armor piercing ammunition to be received, and the identity of the manufacturer or importer from whom such ammunition is to be received. The approved application shall be submitted to the manufacturer or importer who shall retain a copy as part of the records required by Subpart H of this part.

Par. 67. Section 178.150 is revised to read as follows:

§ 178.150 Seizure and forfeiture.

(a) Any firearm or ammunition involved in or used in any knowing violation of subsections (a)(4), (a)(6), (f), (g), (h), (i), (j), or (k) of section 922 of the Act, or knowing importation or bringing into the United States or any possession thereof any firearm or ammunition in violation of section 922(1) of the Act, or knowing violation of section 924 of the Act, or willful violation of any other provision of the Act or of this part, or any violation of any other criminal law of the United States, or any firearm or ammunition intended to be used in any offense referred to in paragraph (c) of this section, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1986 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of the Act: *Provided*, That upon acquittal of the owner or possessor, or dismissal of the charges against such person other than upon motion of the Government prior to trial, the seized firearms or ammunition shall be returned forthwith to the owner or possessor or to a person delegated by the owner or possessor unless the return of the firearms or ammunition would place the owner or possessor or the delegate of the owner or possessor in violation of law. Any action or proceeding for the forfeiture of firearms or ammunition shall be commenced within 120 days of such seizure.

(b) Only those firearms or quantities of ammunition particularly named and individually identified as involved in or used in any violation of the provisions of the Act or this part, or any other criminal law of the United States or as intended to be used in any offense referred to in paragraph (c) of this section, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure, forfeiture and disposition.

(c) The offenses referred to in paragraphs (a) and (b) of this section for which firearms and ammunition intended to be used in such offenses are subject to seizure and forfeiture are:

(1) Any crime of violence, as that term is defined in section 924(c)(3) of the Act;

(2) Any offense punishable under the Controlled Substances Act (21 U.S.C. 801 *et seq.*) or the Controlled Substances Import and Export Act (21 U.S.C. 951 *et seq.*);

(3) Any offense described in section 922(a)(1), 922(a)(3), 922(a)(5), or 922(b)(3) of the Act, where the firearm or ammunition intended to be used in such offense is involved in a pattern of activities which includes a violation of any offense described in section 922(a)(1), 922(a)(3), 922(a)(5), or 922(b)(3) of the Act;

(4) Any offense described in section 922(d) of the Act where the firearm or ammunition is intended to be used in such offense by the transferor of such firearm or ammunition;

(5) Any offense described in section 922(i), 922(j), 922(l), 922(n), or 924(b) of the Act; and

(6) Any offense which may be prosecuted in a court of the United States which involves the exportation of firearms or ammunition.

Par. 68. Section 178.171 is revised to read as follows:

§ 178.171 Exportation.

Firearms and ammunition shall be exported in accordance with the applicable provisions of section 38 of the Arms Export Control Act (22 U.S.C.

2778) and regulations thereunder. However, licensed manufacturers, licensed importers, and licensed dealers exporting firearms shall maintain records showing the manufacture or acquisition of the firearms as required by this part and records showing the name and address of the foreign consignee of the firearms and the date the firearms were exported. Licensed manufacturers and licensed importers exporting armor piercing ammunition shall maintain records showing the name and address of the foreign consignee and the date the armor piercing ammunition was exported.

PART 179—[AMENDED]

Par. 69. The authority citation for Part 179 continues to read as follows:

Authority: 26 U.S.C. 7805.

Pars. 70–71. In § 179.11 the following definitions are revised to read as follows:

§ 179.11 Meaning of terms.

* * * * *

Machine gun. Any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.

* * * * *

Muffler or silencer. Any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for the use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.

* * * * *

Pistol. A weapon originally designed, made, and intended to fire a projectile (bullet) from one or more barrels when held in one hand, and having (a) a chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and (b) a short stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s).

* * * * *

Revolver. A projectile weapon, of the pistol type, having a breechloading chambered cylinder so arranged that the cocking of the hammer or movement of the trigger rotates it and brings the next cartridge in line with the barrel for firing.

* * * * *

Par. 72. Section 179.21 is amended by revising paragraph (c) to read as follows:

§ 179.21 Forms prescribed.

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(c) Requests for forms should be mailed to the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153.

* * * * *

Par. 73. Section 179.26 is revised to read as follows:

§ 179.26 Alternate methods or procedures; emergency variations from requirements.

(a) *Alternate methods or procedures.* Any person subject to the provisions of this part, on specific approval by the Director as provided in this paragraph, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this part. The Director may approve an alternate method or procedure, subject to stated conditions, when it is found that:

(1) Good cause is shown for the use of the alternate method or procedure;

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure and that the alternate method or procedure is substantially equivalent to that specifically prescribed method or procedure; and

(3) The alternate method or procedure will not be contrary to any provision of law and will not result in an increase in cost to the Government or hinder the effective administration of this part.

Where such person desires to employ an alternate method or procedure, a written application shall be submitted to the appropriate regional director (compliance), for transmittal to the Director. The application shall specifically describe the proposed alternate method or procedure and shall set forth the reasons for it. Alternate methods or procedures may not be employed until the application is approved by the Director. Such person shall, during the period of authorization of an alternate method or procedure, comply with the terms of the approved application. Authorization of any alternate method or procedure may be withdrawn whenever, in the judgment of the Director, the effective administration of this part is hindered by the continuation of the authorization.

(b) *Emergency variations from requirements.* The Director may approve a method of operation other than as specified in this part, where it is found that an emergency exists and the proposed variation from the specified requirements are necessary and the proposed variations (1) will not hinder the effective administration of this part, and (2) will not be contrary to any provisions of law. Variations from requirements granted under this paragraph are conditioned on compliance with the procedures, conditions, and limitations set forth in the approval of the application. Failure to comply in good faith with the procedures, conditions, and limitations shall automatically terminate the authority for the variations, and the person granted the variance shall fully comply with the prescribed requirements of regulations from which the variations were authorized. Authority for any variation may be withdrawn whenever, in the judgment of the Director, the effective administration of this part is hindered by the continuation of the variation. Where a person desires to employ an emergency variation, a written application shall be submitted to the appropriate regional director (compliance) for transmittal to the Director. The application shall describe the proposed variation and set forth the reasons for it. Variations may not be employed until the application is approved.

(c) *Retention of approved variations.* The person granted the variance shall retain and make available for examination by ATF officers any application approved by the Director under this section.

Par. 74. Section 179.61 is revised to read as follows:

§ 179.61 Rate of tax.

Except as provided in this subpart, there shall be levied, collected, and paid upon the making of a firearm a tax at the rate of $200 for each firearm made. This tax shall be paid by the person making the firearm. Payment of the tax on the making of a firearm shall be represented by a $200 adhesive stamp bearing the words "National Firearms Act." The stamps are maintained by the Director.

Par. 75. Section 179.62 is revised to read as follows:

§ 179.62 Application to make.

No person shall make a firearm unless the person has filed with the Director a written application on Form 1 (Firearms), Application to Make and Register a Firearm, in duplicate,

executed under the penalties of perjury, to make and register the firearm and has received the approval of the Director to make the firearm which approval shall effectuate registration of the weapon to the applicant. The application shall identify the firearm to be made by serial number, type, model, caliber or gauge, length of barrel, other marks of identification, and the name and address of original manufacturer (if the applicant is not the original manufacturer). The applicant must be identified on the Form 1 (Firearms) by name and address and, if other than a natural person, the name and address of the principal officer or authorized representative and the employer identification number and, if an individual, the identification must include the date and place of birth and the information prescribed in § 179.63. Each applicant shall identify the Federal firearms license and special (occupational) tax stamp issued to the applicant, if any. The applicant shall also show required information evidencing that making or possession of the firearm would not be in violation of law. If the making is taxable, a remittance in the amount of $200 shall be submitted with the application in accordance with the instructions on the form. If the making is taxable and the application is approved, the Director will affix a National Firearms Act stamp to the original application in the space provided therefor and properly cancel the stamp (see § 179.67). The approved application will be returned to the applicant. If the making of the firearm is tax exempt under this part, an explanation of the basis of the exemption shall be attached to the Form 1 (Firearms).

Par. 76. Section 179.63 is revised to read as follows:

§ 179.63 Identification of applicant.

If the applicant is an individual, the applicant shall securely attach to each copy of the Form 1 (Firearms), in the space provided on the form, a photograph of the applicant 2 × 2 inches in size, clearly showing a full front view of the features of the applicant with head bare, with the distance from the top of the head to the point of the chin approximately 1¼ inches, and which shall have been taken within 1 year prior to the date of the application. The applicant shall attach two properly completed FBI Forms FD–258 (Fingerprint Card) to the application. The fingerprints must be clear for accurate classification and should be taken by someone properly equipped to take them. A certificate of the local chief of police, sheriff of the county, head of the State police, State or local district attorney or prosecutor, or such other person whose certificate may in a particular case be acceptable to the Director, shall be completed on each copy of the Form 1 (Firearms). The certificate shall state that the certifying official is satisfied that the fingerprints and photograph accompanying the application are those of the applicant and that the certifying official has no information indicating that possession of the firearm by the maker would be in violation of State or local law or that the maker will use the firearm for other than lawful purposes.

Par. 77. Section 179.64 is revised to read as follows:

§ 179.64 Procedure for approval of application.

The application to make a firearm, Form 1 (Firearms), must be forwarded directly, in duplicate, by the maker of the firearm to the Director in accordance with the instructions on the form. The Director will consider the application for approval or disapproval. If the application is approved, the Director will return the original thereof to the maker of the firearm and retain the duplicate. Upon receipt of the approved application, the maker is authorized to make the firearm described therein. The maker of the firearm shall not, under any circumstances, make the firearm until the application, satisfactorily executed, has been forwarded to the Director and has been approved and returned by the Director with the National Firearms Act stamp affixed. If the application is disapproved, the original Form 1 (Firearms) and the remittance submitted by the applicant for the purchase of the stamp will be returned to the applicant with the reason for disapproval stated on the form.

§ 179.84 [Amended]

Par. 78. Section 179.84 is amended by removing the last two sentences of the section.

Par. 79. Section 179.85 is revised to read as follows:

§ 179.85 Identification of transferee.

If the transferee is an individual, such person shall securely attach to each copy of the application, Form 4 (Firearms), in the space provided on the form, a photograph of the applicant 2 × 2 inches in size, clearly showing a full front view of the features of the applicant with head bare, with the distance from the top of the head to the point of the chin approximately 1¼ inches, and which shall have been taken within 1 year prior to the date of the application. The transferee shall attach two properly completed FBI Forms FD–258 (Fingerprint Card) to the application. The fingerprints must be clear for accurate classification and should be taken by someone properly equipped to take them. A certificate of the local chief of police, sheriff of the county, head of the State police, State or local district attorney or prosecutor, or such other person whose certificate may in a particular case be acceptable to the Director, shall be completed on each copy of the Form 4 (Firearms). The certificate shall state that the certifying official is satisfied that the fingerprints and photograph accompanying the application are those of the applicant and that the certifying official has no information indicating that the receipt or possession of the firearm would place the transferee in violation of State or local law or that the transferee will use the firearm for other than lawful purposes.

Par. 80. Section 179.86 is revised to read as follows:

§ 179.86 Action on application.

The Director will consider a completed and properly executed application, Form 4 (Firearms), to transfer a firearm. If the application is approved, the Director will affix the appropriate National Firearms Act stamp, cancel it, and return the original application showing approval to the transferor who may then transfer the firearm to the transferee along with the approved application. The approval of an application, Form 4 (Firearms), by the Director will effectuate registration of the firearm to the transferee. The transferee shall not take possession of a firearm until the application, Form 4 (Firearms), for the transfer filed by the transferor has been approved by the Director and registration of the firearm is effectuated to the transferee. The transferee shall retain the approved application as proof that the firearm described therein is registered to the transferee, and shall make the approved Form 4 (Firearms) available to any ATF officer on request. If the application, Form 4 (Firearms), to transfer a firearm is disapproved by the Director, the original application and the remittance for purchase of the stamp will be returned to the transferor with reasons for the disapproval stated on the application. An application, Form 4 (Firearms), to transfer a firearm shall be denied if the transfer, receipt, or possession of a firearm would place the transferee in violation of law.

Par. 81. In § 179.90, paragraphs (a) and (b) are revised to read as follows:

§ 179.90 Certain government entities.

(a) A firearm may be transferred without payment of the transfer tax to or from any State, possession of the United States, any political subdivision thereof, or any official police organization of such a governmental entity engaged in criminal investigations.

(b) The exemption provided in paragraph (a) of this section shall be obtained by the transferor of the firearm filing with the Director an application, Form 5 (Firearms), Application for Tax-exempt Transfer and Registration of Firearm, in duplicate, executed under the penalties of perjury. The application shall (1) show the name and address of the transferor and of the transferee, (2) identify the Federal firearms license and special (occupational) tax stamp, if any, of the transferor and of the transferee, (3) show the name and address of the manufacturer and the importer of the firearm, if known, (4) show the type, model, overall length (if applicable), length of barrel, caliber, gauge or size, serial number, and other marks of identification of the firearm, and (5) contain a statement by the transferor that the transferor is entitled to the exemption because either the transferor or the transferee is a governmental entity coming within the purview of paragraph (a) of this section. In the case of a transfer of a firearm by a governmental entity to a transferee who is a natural person not qualified as a manufacturer, importer, or dealer under this part, the transferee shall be further identified in the manner prescribed in § 179.85. If the Director approves an application, Form 5 (Firearms), the original Form 5 (Firearms) shall be returned to the transferor with the approval noted thereon. Approval of an application, Form 5 (Firearms), by the Director shall effectuate the registration of that firearm to the transferee. Upon receipt of the approved Form 5 (Firearms), the transferor shall deliver same with the firearm to the transferee. The transferor shall not transfer the firearm to the transferee until the application, Form 5 (Firearms), has been approved by the Director and the original thereof has been returned to the transferor. If the Director disapproves the application, Form 5 (Firearms), the original Form 5 (Firearms) shall be returned to the transferor with the reasons for the disapproval stated thereon. An application by a governmental entity to transfer a firearm shall be denied if the tranfer, receipt, or possession of a firearm would place the transferee in violation of law.

* * * * *

Par. 82. Section 179.92 is revised to read as follows:

§ 179.92 Transportation of firearms to effect transfer.

Notwithstanding any provision of § 178.28 of this chapter, it shall not be required that authorization be obtained from the Director for the transportation in interstate or foreign commerce of a firearm in order to effect the transfer of a firearm authorized under the provisions of this subpart.

Par. 83. Section 179.102 is amended by revising the last sentence of the section and adding a new sentence to the end to read as follows:

§ 179.102 Identification of firearms.

* * * A firearm frame or receiver or any other part defined as a machine gun or a muffler or silencer for the purposes of this part which is not a component part of a complete firearm at the time it is sold, shipped, or otherwise disposed of by a manufacturer, importer, or maker shall be identified as required by this section. The Director may authorize other means of identification of parts defined as machine guns other than frames or receivers and parts defined as mufflers or silencers upon receipt of a letter application, in duplicate, showing that such other identification is reasonable and will not hinder the effective administration of this part.

Par. 84. Section 179.104 is amended by revising the last sentence to read as follows:

§ 179.104 Registration of firearms by certain governmental entities.

* * * The registration of any firearm under this section is for official use only and a subsequent transfer will be approved only to other governmental entities for official use.

Par. 85. Section 179.105 and the undesignated center heading preceding it are revised to read as follows:

Machine Guns

§ 179.105 Transfer and possession of machine guns.

(a) *General.* As provided by 26 U.S.C. 5812 and 26 U.S.C. 5822, an application to make or transfer a firearm shall be denied if the making, transfer, receipt, or possession of the firearm would place the maker or transferee in violation of law. Section 922(o), Title 18, U.S.C., makes it unlawful for any person to transfer or possess a machine gun, except a transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof or a State, or a department, agency, or political subdivision thereof; or any lawful transfer or lawful possession of a machine gun that was lawfully possessed before May 19, 1986. Therefore, notwithstanding any other provision of this part, no application to make, transfer, or import a machine gun will be approved except as provided by this section.

(b) *Machine guns lawfully possessed prior to May 19, 1986.* A machine gun possessed in compliance with the provisions of this part prior to May 19, 1986, may continue to be lawfully possessed by the person to whom the machine gun is registered and may, upon compliance with the provisions of this part, be lawfully transferred to and possessed by the transferee.

(c) *Importation and manufacture.* Subject to compliance with the provisions of this part, importers and manufacturers qualified under this part may import and manufacture machine guns on or after May 19, 1986, for sale or distribution to any department or agency of the United States or any State or political subdivision thereof, or for use by dealers qualified under this part as sales samples as provided in paragraph (d) of this section. The registration of such machine guns under this part and their subsequent transfer shall be conditioned upon and restricted to the sale or distribution of such weapons for the official use of Federal, State or local governmental entities. Subject to compliance with the provisions of this part, manufacturers qualified under this part may manufacture machine guns on or after May 19, 1986, for exportation in compliance with the Arms Export Control Act (22 U.S.C. 2778) and regulations prescribed thereunder by the Department of State.

(d) *Dealer sales samples.* Subject to compliance with the provisions of this part, applications to transfer and register a machine gun manufactured or imported on or after May 19, 1986, to dealers qualified under this part will be approved if it is established by specific information the expected governmental customers who would require a demonstration of the weapon, information as to the availability of the machine gun to fill subsequent orders, and letters from governmental entities expressing a need for a particular model or interest in seeing a demonstration of a particular weapon. Applications to transfer more than one machine gun of a particular model to a dealer must also establish the dealer's need for the quantity of samples sought to be transferred.

(e) *The making of machine guns on or after May 19, 1986.* Subject to compliance with the provisions of this

part, applications to make and register machine guns on or after May 19, 1986, for the benefit of a Federal, State or local governmental entity (e.g., an invention for possible future use of a governmental entity or the making of a weapon in connection with research and development on behalf of such an entity) will be approved if it is established by specific information that the machine gun is particularly suitable for use by Federal, State or local governmental entities and that the making of the weapon is at the request and on behalf of such an entity.

(f) *Discontinuance of business.* Since section 922(o), Title 18, U.S.C., makes it unlawful to transfer or possess a machine gun except as provided in the law, any qualified manufacturer, importer, or dealer intending to discontinue business shall, prior to going out of business, transfer in compliance with the provisions of this part any machine gun manufactured or imported after May 19, 1986, to a Federal, State or local governmental entity, qualified manufacturer, qualified importer, or, subject to the provisions of paragraph (d) of this section, dealer qualified to possess such, machine gun.

Par. 86. Section 179.112 is amended by revising paragraphs (a) and (c) to read as follows:

§ 179.112 Registration of imported firearms.

(a) Each importer shall file with the Director an accurate notice on Form 2 (Firearms), Notice of Firearms Manufactured or Imported, executed under the penalties of perjury, showing the importation of a firearm. The notice shall set forth the name and address of the importer, identify the importer's special (occupational) tax stamp and Federal firearms license, and show the import permit number, the date of release from Customs custody, the type, model, length of barrel, overall length, caliber, gauge or size, serial number, and other marks of identification of the firearm imported, and the place where the imported firearm will be kept. The Form 2 (Firearms) covering an imported firearm shall be filed by the importer no later than fifteen (15) days from the date the firearm was released from Customs custody. The importer shall prepare the notice, Form 2 (Firearms), in duplicate, file the original return as prescribed herein, and keep the copy with the records required by Subpart I of this part at the premises covered by the special (occupational) tax stamp. The timely receipt by the Director of the notice, Form 2 (Firearms), and the timely receipt by the Director of the copy of Form 6A (Firearms), Release and Receipt of Imported Firearms, Ammunition and Implements of War, required by § 178.112 of this chapter, covering the weapon reported on the Form 2 (Firearms) by the qualified importer, shall effectuate the registration of the firearm to the importer.

* * * * *

(c) Subject to compliance with the provisions of this part, an application, Form 6 (Firearms), to import a firearm by an importer or dealer qualified under this part, for use as a sample in connection with sales of such firearms to Federal, State or local governmental entities, will be approved if it is established by specific information attached to the application that the firearm is suitable or potentially suitable for use by such entities. Such information must show why a sales sample of a particular firearm is suitable for such use and the expected governmental customers who would require a demonstration of the firearm. Information as to the availability of the firearm to fill subsequent orders and letters from governmental entities expressing a need for a particular model or interest in seeing a demonstration of a particular firearm would establish suitability for governmental use. Applications to import more than one firearm of a particular model for use as a sample by an importer or dealer must also establish the importer's or dealer's need for the quantity of samples sought to be imported.

Par. 87. Section 179.113 is revised to read as follows:

§ 179.113 Conditional importation.

The Director shall permit the conditional importation or bringing into the United States of any firearm for the purpose of examining and testing the firearm in connection with making a determination as to whether the importation or bringing in of such firearm will be authorized under this subpart. An application under this section shall be filed on Form 6 (Firearms), in triplicate, with the Director. The Director may impose conditions upon any importation under this section including a requirement that the firearm be shipped directly from Customs custody to the Director and that the person importing or bringing in the firearm must agree to either export the weapon or destroy it if a final determination is made that it may not be imported or brought in under this subpart. A firearm so imported or brought into the United States may be released from Customs custody in the manner prescribed by the conditional authorization of the Director.

Par. 88. Section 179.119 is revised to read as follows:

§ 179.119 Transportation of firearms to effect exportation.

Notwithstanding any provision of § 178.28 of this chapter, it shall not be required that authorization be obtained from the Director for the transportation in interstate or foreign commerce of a firearm in order to effect the exportation of a firearm authorized under the provisions of this subpart.

Par. 89. Section 179.122(a) and the undesignated center heading are revised to read as follows:

Arms Export Control Act

§ 179.122 Requirements.

(a) Persons engaged in the business of importing firearms are required by the Arms Export Control Act (22 U.S.C. 2778) to register with the Director. (See Part 47 of this chapter.)

* * * * *

Par. 90. Sections 179.161 and 179.162 are revised to read as follows:

§ 179.161 National Firearms Act stamps.

"National Firearms Act" stamps evidencing payment of the transfer tax or tax on the making of a firearm are maintained by the Director. The remittance for purchase of the appropriate tax stamp shall be submitted with the application. Upon approval of the application, the Director will cause the appropriate tax to be paid by affixing the appropriate stamp to the application.

§ 179.162 Stamps authorized.

Adhesive stamps of the $5 and $200 denomination, bearing the words "National Firearms Act," have been prepared and only such stamps shall be used for the payment of the transfer tax and for the tax on the making of a firearm.

Par. 91. Sections 179.171 and 179.172 are revised to read as follows:

§ 179.171 Redemption of or allowance for stamps.

Where a National Firearms Act stamp is destroyed, mutilated or rendered useless after purchase, and before liability has been incurred, such stamp may be redeemed by giving another stamp in lieu thereof. Claim for redemption of the stamp should be filed on ATF Form 2635 (5620.8) with the Director. Such claim shall be accompanied by the stamp or by a satisfactory explanation of the reasons why the stamp cannot be returned, and

shall be filed within 3 years after the purchase of the stamp.

(68A Stat. 830; 26 U.S.C. 6805)

§ 179.172 Refunds.

As indicated in this part, the transfer tax or tax on the making of a firearm is ordinarily paid by the purchase and affixing of stamps, while special tax stamps are issued in payment of special (occupational) taxes. However, in exceptional cases, transfer tax, tax on the making of firearms, and/or special (occupational) tax may be paid pursuant to assessment. Claims for refunds of such taxes, paid pursuant to assessment, shall be filed on ATF Form 2635 (5620.8) within 3 years next after payment of the taxes. Such claims shall be filed with the regional director (compliance) serving the region in which the tax was paid. (For provisions relating to hand-carried documents and manner of filing, see 26 CFR 301.6091–1(b) and 301.6402–2(a).) When an applicant to make or transfer a firearm wishes a refund of the tax paid on an approved application where the firearm was not made pursuant to an approved Form 1 (Firearms) or transfer of the firearm did not take place pursuant to an approved Form 4 (Firearms), the applicant shall file a claim for refund of the tax on ATF Form 2635 (5620.8) with the Director. The claim shall be accompanied by the approved application bearing the stamp and an explanation why the tax liability was not incurred. Such claim shall be filed within 3 years next after payment of the tax.

(68A Stat. 808, 830; 26 U.S.C. 6511, 6805)

Par. 92. Section 179.182 is revised to read as follows:

§ 179.182 Forfeitures.

Any firearm involved in any violation of the provisions of 26 U.S.C. Chapter 53, shall be subject to seizure, and forfeiture under the internal revenue laws: *Provided, however,* That the disposition of forfeited firearms shall be in conformance with the requirements of 26 U.S.C. 5872. In addition, any vessel, vehicle or aircraft used to transport, carry, convey or conceal or possess any firearm with respect to which there has been committed any violation of any provision of 26 U.S.C. Chapter 53, or the regulations in this part issued pursuant thereto, shall be subject to seizure and forfeiture under the Customs laws, as provided by the act of August 9, 1939 (49 U.S.C. App., Chapter 11).

Par. 93. Section 179.193 is revised to read as follows:

§ 179.193 Arms Export Control Act.

For provisions relating to the registration and licensing of persons engaged in the business of manufacturing, importing or exporting arms, ammunition, or implements of war, see the Arms Export Control Act (22 U.S.C. 2778), and the regulations issued pursuant thereto. (See also Part 47 of this chapter.)

January 19, 1988.

Stephen E. Higgins,

Director.

Approved: February 5, 1988.

Francis A. Keating, II,

Assistant Secretary (Enforcement).

[FR Doc. 88–6579 Filed 3–30–88; 8:45 am]

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Federal Register

Thursday
March 31, 1988

Part IV

The President

Federal Register
Vol. 53, No. 62
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Presidential Documents

Title 3—

The President

Proclamation 5781 of March 28, 1988

Cancer Control Month, 1988

By the President of the United States of America

A Proclamation

In the continuing struggle against cancer, Americans have put their trust in research; today we can affirm that the public trust has been rewarded. Just a few years ago, the cancer cell was seen as a deadly, unsolvable mystery. The mystery is still complex, but today it is considered solvable. We now know a good deal about what the cancer cell does and how it does it.

We have begun to see cancer not as a random event, but as an error in the normal process of growth and development. Researchers have found minute but critical differences in the genes of normal and cancer cells. They have identified and isolated oncogenes, which play a role in changing normal, healthy cells to cancer. And, with every passing day, scientists come closer to understanding how and when oncogenes "turn on" and transform cells.

In time, our knowledge of how oncogenes work may help cure many patients, improve the quality of life for others, stave off recurrences for still others, and enable us to prevent cancer before it starts.

New knowledge about cancer prevention and treatment has improved the outlook for cutting the cancer death rate. With regard to prevention, we now know that type of diet, exposure to the sun, and use of tobacco can trigger events in the cell that cause up to 80 percent of all cancers.

We can reduce our risk of cancer if we take a few sensible steps. Adding fiber and reducing fat in our diet can significantly cut cancer incidence and mortality; we should choose more fruits, vegetables, and whole-grain breads and cereals and cut down on fatty meat, eggs, dairy products, and oils in cooking and salads. Researchers have shown that overexposure to the sun's rays causes skin cancer; they advise us all to wear protective clothing and to use sunscreens to reduce the risk of this illness. The biggest culprit—responsible for 30 percent of all cancer deaths—is smoking and other tobacco use. The scientific evidence linking cigarette smoking to cancers of the lung and mouth is undeniable. Smoking also contributes to cancers of the bladder, pancreas, and kidney. The message is clear: stop smoking or, better yet, don't start.

The U.S. Public Health Service has found that when people are warned about health hazards, they tend to change their habits for the better. More and more of our citizens want information to help protect their health. Of course, the ideal solution is not to let cancer happen; by modifying the way we live, we can greatly reduce our chances of developing this disease.

This year, the American Cancer Society celebrates its 75th anniversary. The work of the American Cancer Society, the National Cancer Institute, and other organizations devoted to cancer research and control has made a difference. Only a few years ago, it was hard to imagine the tremendous progress we see today. Survival rates have improved for 7 of the 10 major forms of cancer; more than 5 million Americans diagnosed with cancer are alive in 1988. Early detection continues to improve the chances of successful treatment; some 385,000 Americans diagnosed with cancer in 1988 will be alive 5 years from now. Once deadly forms of cancer are now yielding to combined treatments of surgery, radiation, drugs, and new biological agents, such as interleukin-2. A

diagnosis of breast cancer no longer requires an inevitable mastectomy. Children with leukemia are being treated successfully and living to become productive adults.

In 1938, the Congress of the United States passed a joint resolution (52 Stat. 148; 38 U.S.C. 150) requesting the President to issue an annual proclamation declaring April to be "Cancer Control Month."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of April 1988 as Cancer Control Month. I invite the Governors of the fifty States and the Commonwealth of Puerto Rico, and the appropriate officials of all other areas under the United States flag, to issue similar proclamations. I also ask the health care professionals, communications industry, food industry, community groups, and all other interested organizations and individual citizens to unite during this month to reaffirm publicly our Nation's continuing commitment to control cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of March, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 88-7270
Filed 3-30-88; 11:50 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5782 of March 29, 1988

Education Day, U.S.A., 1988

By the President of the United States of America

A Proclamation

Education that emphasizes the ethical values and principles upon which America was founded, and upon which all civilization rests, remains as vital to our country today as ever in our past. History, reason, experience, and the desires of the human heart teach us that individuals and nations alike need, in addition to technical knowledge and skills, all the wisdom, guidance, and inspiration that ethical values provide. We ourselves possess these treasures only because our ancestors cherished and preserved them through the ages; we are duty-bound to pass them along to our children, who need them and seek them just as much as we and members of every generation have needed them and sought them.

These truths are known and practiced now by more and more citizens and educators. One group that exemplifies this is Hasidic Judaism's worldwide Lubavitch movement, led by Rabbi Menachem Mendel Schneerson. It is fitting that we salute his lasting achievements in education, as well as those of his late wife, the Rebbetzin Chaya Moussia Schneerson; of their many colleagues; and of everyone who fosters education that incorporates our prized heritage of ethical values.

In recognition of Rabbi Schneerson's dedication to our educational system, and in celebration of his 86th birthday, the Congress, by House Joint Resolution 470, has designated March 29, 1988, as "Education Day, U.S.A." and authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim March 29, 1988, as Education Day, U.S.A., and call upon the people of the United States, and in particular our teachers and other educational leaders, to observe that day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of March, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 88-7271
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Billing code 3195-01-M

Presidential Documents

Proclamation 5783 of March 29, 1988

Fair Housing Month, 1988

By the President of the United States of America

A Proclamation

This April is a milestone in the history of civil rights. It marks the 20th anniversary of the passage of Title VIII of the Civil Rights Act of 1968, popularly called the "Fair Housing Act," which declared as a national policy that housing throughout our country be made available to all citizens on the basis of equality and fairness. The Act outlaws any discrimination in the sale, rental, or financing of housing because of race, color, religion, sex, or national origin.

The Fair Housing Act reflects Americans' willingness and determination to make sure that housing is available to all without discrimination. In the 2 decades since its passage, judicial and administrative enforcement and public and private efforts to induce voluntary compliance with the law have helped countless people obtain the housing they desire. America truly has succeeded in moving closer to the ideal of a society open to all.

Every American is entitled to freedom from discrimination in housing; the 20th anniversary of the Act is an appropriate time for all of us to reaffirm our dedication as a Nation to the principles of equal opportunity on which the Fair Housing Act is grounded.

The Congress, by Public Law 100–248, has designated April 1988 as "Fair Housing Month" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim April 1988 as Fair Housing Month.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of March, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 88–7272
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Reader Aids

Federal Register

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LIST OF PUBLIC LAWS

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

S.J. Res. 225/Pub. L. 100-267

Approving the location of the Korean War Memorial (Mar. 28, 1988; 102 Stat. 41; 1 page) Price: $1.00

S.J. Res. 229/Pub. L. 100-268

To designate the day of April 1, 1988, as "Run to Daylight Day." (Mar. 28, 1988; 102 Stat. 42; 1 page) Price: $1.00

S.J. Res. 253/Pub. L. 100-269

Designating April 9, 1988, as "National Former Prisoners of War Recognition Day." (Mar. 28, 1988; 102 Stat. 43; 1 page) Price: $1.00