AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

4-28-88
Vol. 53 No. 82
Pages 15193-15346

federal register

Thursday
April 28, 1988

Briefings on How To Use the Federal Register—
For information on briefings in Washington, DC, Kansas City, MO, and New York, NY, see announcement on the inside cover of this issue.

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

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

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

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

How To Cite This Publication: Use the volume number and the page number. Example: 52 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

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

Single copies/back copies:

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

FEDERAL AGENCIES

Subscriptions:

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

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

THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

WASHINGTON, DC

WHEN: May 26; at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC
RESERVATIONS: Laurice Clark, 202-523-3517

KANSAS CITY, MO

WHEN: June 10; at 9:00 a.m.
WHERE: Room 147-148, Federal Building, 601 East 12th Street, Kansas City, MO
RESERVATIONS: Call the St. Louis Federal Information Center.
Missouri residents: 1-800-392-7711
Kansas residents: 1-800-432-2934

NEW YORK, NY

WHEN: June 13; at 1:00 p.m.
WHERE: Room 305C, 26 Federal Plaza, New York, NY
RESERVATIONS: Call Arlene Shapiro or Stephen Colon at the New York Federal Information Center, 212-264-4810.

Contents

Federal Register
Vol. 53, No. 82
Thursday, April 28, 1988

Administrative Conference of the United States
NOTICES
Meetings:
Administration Committee, 15250

Agency for International Development
NOTICES
Meetings:
Mediterranean fruitfly eradication program in Guatemala, 15298
Micro Enterprise Advisory Committee, 15299

Agricultural Marketing Service
RULES
Nectarines, pears, plums, and peaches grown in California, 15193
PROPOSED RULES
Kiwifruit grown in California, 15227

Agriculture Department
See Agricultural Marketing Service; Forest Service; Rural Electrification Administration; Soil Conservation Service

Air Force Department
NOTICES
Meetings:
Special Nevada Report [Editorial Note: For a document on this subject see entry under Land Management Bureau.]

Architectural and Transportation Barriers Compliance Board
NOTICES
Meetings, 15252

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Census Bureau
NOTICES
Meetings:
Agriculture Statistics Advisory Committee, 15252

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
North Dakota, 15252
Wyoming, 15252

Coast Guard
RULES
Ports and waterways safety:
Old River control structure, Mississippi River, MS; safety zone, 15206
PROPOSED RULES
Drawbridge operations:
Louisiana, 15235

Commerce Department
See also Census Bureau; Economic Analysis Bureau; Export Administration; Foreign-Trade Zones Board; International Trade Administration; National Bureau of Standards
NOTICES
Agency information collection activities under OMB review, 15252

Commodity Futures Trading Commission
NOTICES
Contract market proposals:
Amex Commodities Corp.—
Ten-year Treasury notes, 15272
Meetings; Sunshine Act, 15333
(4 documents)

Defense Department
See also Air Force Department; Navy Department
RULES
Personnel:
Employment and volunteer work of spouses, 15205

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Schooler, Joe F., M.D., 15300

Economic Analysis Bureau
RULES
Direct investments surveys:
Foreign direct investments in United States—
Raising exemption levels for BE-605 and 606B surveys, 15197

Economic Regulatory Administration
NOTICES
Natural gas exportation and importation:
Amalgamated Pipeline Co., 15274

Education Department
PROPOSED RULES
Federal claims collection; salary offset, 15336
NOTICES
Grants; availability, etc.:
Rehabilitation long-term training program
Funding priorities, 15345

Employment and Training Administration
NOTICES
Job Training Partnership Act:
Migrant and seasonal farmworker programs—
State planning estimates and allocation formula, 15302
Training and employment guidance letter; program guidance and planning schedule for Titles II and III grants, 15305

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission

NOTICES
Uranium Mill Tailing Radiation Control Act; remedial action program; proposed decision on private property near Naturita, CO, 15273

Environmental Protection Agency
RULES
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Paraquat, 15207
PROPOSED RULES
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
2-(2-chlorophenyl) methyl-4,4-dimethyl-3-isoxazolidinone, 15237
Blackberries and caneberries, 15238
NOTICES
Grants, State and local assistance:
Grantee performance evaluation reports—Missouri et al., 15281
Pesticide, food, and feed additive petitions:
E.I. DuPont De Nemours & Co., Inc., 15281
Toxic and hazardous substances control:
Chemical testing—Exclusion or waiver, 15282
Premanufacture exemption applications, 15284
Premanufacture notices receipts, 15282
Water pollution control:
Clean Water Act violations; proposed administration penalty assessment, 15284

Export Administration
See also International Trade Administration
NOTICES
Export privileges, actions affecting:
Purchasing Pool Co., 15253

Federal Communications Commission
RULES
Radio broadcasting:
Public broadcasting licensees; issues programs list, 15224
Television and FM booster stations; application forms, 15225
Radio stations; table of assignments:
Alaska, 15221
Florida, 15222
Minnesota, 15222 (2 documents)
Nevada; correction, 15223
New Mexico, 15223
Vermont, 15223
Television stations; table of assignments:
Texas, 15224
PROPOSED RULES
Radio stations; table of assignments:
Alabama and Florida, 15241
California, 15239, 15240 (2 documents)
North Carolina, 15240
NOTICES
Agency information collection activities under OMB review, 15285
Common carrier services:
Multichannel multipoint distribution services; filing period for applications, 15285
Rulemaking proceedings; petitions filed, granted, denied, etc. 15286

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 15333 (2 documents)

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 15334

Federal Emergency Management Agency
RULES
Flood insurance program:
Insurance sales and claims adjustment, 15219
Private sector property insurers assistance (write-your-own program), 15208

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act:
Pipelines; interstate transportation of gas for others; effects of partial wellhead decontrol, 15198
NOTICES
Electric rate, small power production, and interlocking directorate filings:
Washington Water Power Co. et al., 15275
Environmental statements; availability, etc.:
Algonquin Gas Transmission Co., 15276
Natural gas certificate filings:
El Paso Natural Gas Co. et al., 15277
Applications, hearings, determinations, etc.:
East Tennessee Natural Gas Co., 15279
Lawrenceburg Gas Transmission Corp., 15279, 15280 (2 documents)
Natural Gas Pipeline Co. of America, 15280
Northern Natural Gas Co., 15280
Southwest Gas Corp., 15281

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Mason County, KY et al., 15330

Federal Home Loan Bank Board
PROPOSED RULES
Federal Savings and Loan Insurance Corporation:
Transactions with affiliates of subsidiary insured institutions, 15230

Federal Maritime Commission
NOTICES
Agreements filed, etc., 15286, 15287 (3 documents)

Federal Reserve System
RULES
Securities credit transactions; OTC margin stocks list (Regulations G,T,U, and X), 15195
NOTICES
Meetings; Sunshine Act, 15334
Applications, hearings, determinations, etc.:
Bayerische Vereinsbank AG et al., 15287
Harco Bancshares, Inc., et al., 15288
Peoples Bancorporation et al., 15288

Federal Trade Commission
NOTICES
Meetings; Sunshine Act, 15334

Financial Management Service
See Fiscal Service

Fiscal Service
NOTICES
Surety companies acceptable on Federal bonds:
Heart of America Fire & Casualty Co., 15331

Food and Drug Administration
RULES
Food additives:
Adjuvants, production aids, and sanitizers—
N,N'-1,3-propanediylbis(3,5-di-tert-butyl-4-hydroxyhydrocinnamamide), 15199
Secondary direct additivies; poly(acrylic acid-co-hypophosphite), sodium salt (4:1 to 16:1 monomer ratio by weight), 15199

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Georgia, 15254
Tennessee
Tennessee Valley Authority Phipps Bend site, 15255
Texas, 15255

Forest Service
PROPOSED RULES
Mineral materials disposal; petrified wood and common varieties of sand, etc., 15236
NOTICES
Environmental statements; availability, etc.:
Payette Forest, ID, 15250

Health and Human Services Department
See Food and Drug Administration; Health Care Financing Administration; National Institutes of Health; Public Health Service

Health Care Financing Administration
NOTICES
Medicaid:
State plan amendments, reconsideration, hearings—
California, 15288

Health Resources and Services Administration
See Public Health Service

Immigration and Naturalization Service
RULES
Organization, functions, and authority delegations:
Camden, NJ; port of entry, 15194

Interior Department
See Land Management Bureau

Internal Revenue Service
RULES
Income taxes:
Foreign corporations; corporate alternative minimum tax book income adjustment, 15200
PROPOSED RULES
Income taxes:
Foreign corporations; corporate alternative minimum tax book income adjustment; cross-reference, 15234
NOTICES
Income taxes:
Electronic filing program (1989); Forms 1040, 1040A, and 1040EZ returns, 15331

International Development Cooperation Agency
See Agency for International Development

International Trade Administration
See also Export Administration
NOTICES
Antidumping:
Carbon steel plate from Japan, 15255
Dried heavy salted codfish from Canada, 15256
Elemental sulphur from Canada, 15257
Impression fabric of man-made fiber from Japan, 15262
Industrial nitrocellulose from France, 15262
Precipitated barium carbonate from West Germany, 15263
Sodium nitrate from Chile, 15258
Stainless steel wire rods from France, 15260
Synthetic methionine from Japan, 15261
Countervailing duties:
Bricks from Mexico, 15264
Industrial nitrocellulose from France, 15267
Meetings:
Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee, 15268
Short supply determinations:
Hot-rolled, stainless steel, 15261

International Trade Commission
NOTICES
Meetings; Sunshine Act, 15334

Interstate Commerce Commission
NOTICES
Railroad operation, acquisition, construction, etc.:
Pittsburgh & Lake Erie Railroad Co., 15298
Railroad services abandonment:
Indiana Railroad Co., 15298

Justice Department
See also Drug Enforcement Administration; Immigration and Naturalization Service
NOTICES
Pollution control; consent judgments:
O'Bryan, George M., et al., 15299

Labor Department
See Employment and Training Administration; Labor Statistics Bureau

Labor Statistics Bureau
NOTICES
Meetings:
Labor Research Advisory Council Committees, 15302

Land Management Bureau
NOTICES
Arcata Resource Management Plan, hearings, 15291
Closure of public lands:
Nevada, 15291
Meetings:
Special Nevada Report, 15272
Oil and gas leasing:
California, 15291
Colorado, 15291
Wyoming, 15291, 15292
(2 documents)
Organization, functions, and authority delegations:
Great Falls Resource Areas; address change, 15292
Realty actions; sales, leases, etc.:
Arizona, 15292

California, 15292
Montana, 15293
Wyoming, 15293
Survey plat filings:
Colorado, 15294
Montana, 15294
Withdrawal and reservation of lands:
South Dakota, 15295
Wyoming, 15296, 15297
(3 documents)

National Aeronautics and Space Administration
NOTICES
Agency information collection activities under OMB review, 15312
Meetings:
Aeronautics Advisory Committee, 15313

National Bureau of Standards
NOTICES
Information processing standards, Federal:
POSIX; portable operating system interface for computer environments, 15268

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Arts in Education Advisory Panel, 15313
Design Arts Advisory Panel, 15313
Music Advisory Panel, 15314
Visual Arts Advisory Panel, 15314

National Highway Traffic Safety Administration
PROPOSED RULES
Fuel economy standards:
Passenger automobiles; petition denied, 15241

National Institutes of Health
NOTICES
Meetings:
Fogarty International Center Advisory Board, 15290
National Heart, Lung, and Blood Institute, 15290

National Science Foundation
NOTICES
Meetings:
Genetic Biology Advisory Panel, 15314
Instrumentation and Instrument Development Program Advisory Panel, 15314
Networking and Communications Research and Infrastructure Division Advisory Panel, 15315

Navy Department
NOTICES
Meetings:
Special Nevada Report [**Editorial Note**: For a document on this subject see entry under Land Management Bureau.]

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
All Chemical Isotope Enrichment, Inc., 15315, 15317
(2 documents)
Applications, hearings, determinations, etc.:
Commonwealth Edison Co., 15319
Florida Power Corp., 15319

Public Health Service
See also Food and Drug Administration; National Institutes of Health
NOTICES
Organization, functions, and authority delegations:
National Institutes of Health, 15290

Railroad Retirement Board
NOTICES
Agency information collection activities under OMB review, 15319, 15320
(2 documents)
Meetings; Sunshine Act, 15334

Rural Electrification Administration
PROPOSED RULES
Electric loan policies and application procedures, 15228
NOTICES
Environmental statements; availability, etc.:
Midstate Electric Cooperative, Inc., 15250

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
Boston Stock Exchange, Inc., 15320
National Association of Securities Dealers, Inc., 15327
(2 documents)
New York Stock Exchange, Inc., 15322
Options Clearing Corp., 15323
Pacific Stock Exchange, Inc., 15325
Philadelphia Stock Exchange, Inc., 15326
Self-regulatory organizations; unlisted trading privileges:
Midwest Stock Exchange, Inc., 15327
Philadelphia Stock Exchange, Inc., 15328

Small Business Administration
PROPOSED RULES
Small business size standards:
Small business for government procurement, 15232
NOTICES
Meetings; regional advisory councils:
California, 15328
Idaho, 15328
Utah, 15328

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
Avoyelles-St. Landry Watershed, LA, 15251

State Department
NOTICES
Meetings:
International Telegraph and Telephone Consultative Committee, 15328, 15329
(2 documents)
Shipping Coordinating Committee, 15329
(2 documents)

Transportation Department
See Coast Guard; Federal Highway Administration; National Highway Traffic Safety Administration

Treasury Department
See Fiscal Service; Internal Revenue Service

Separate Parts In This Issue

Part II
Department of Education, 15336

Part III
Department of Education, 15345

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR
916 15193
917 15193
Proposed Rules:
920 15227
1710 15228

8 CFR
100 15194

12 CFR
207 15195
220 15195
221 15195
224 15195
Proposed Rules:
563 15230

13 CFR
Proposed Rules:
121 15232

15 CFR
806 15197

18 CFR
2 15198
284 15198

21 CFR
173 15199
178 15199

26 CFR
1 15200
Proposed Rules:
1 15234

32 CFR
105 15205

33 CFR
165 15206
Proposed Rules:
117 15235

34 CFR
Proposed Rules:
31 15336

36 CFR
Proposed Rules:
228 15236

40 CFR
180 15207
Proposed Rules:
180 (2 documents) 15237, 15238

44 CFR
61 15208
62 (2 documents) 15208, 15219

47 CFR
73 (9 documents) 15221–15224
74 15225
Proposed Rules:
73 (4 documents) 15239, 15241

49 CFR
Proposed Rules:
531 15241

Rules and Regulations

Federal Register
Vol. 53, No. 82
Thursday, April 28, 1988

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 916 and 917

Nectarines, Fresh Pears, Plums, and Peaches Grown in the State of California; Amendments to the Direct Sales Exemption Regulations for Nectarines, Plums, and Peaches

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule makes changes in the direct home use sales exemption regulations established under the nectarine and the pear, plum, and peach marketing orders. The changes will: (1) Bring the quantities of nectarines, plums, and peaches that can be handled free of certain program requirements under that exemption more in line with the quantities that would normally be used for home use; and (2) clarify the language of the exemption to avoid possible misunderstandings within the affected industries as to the quantities that can be handled under the exemption.

EFFECTIVE DATE: April 28, 1988.

FOR FURTHER INFORMATION CONTACT: Jerry Brown, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456; telephone 202-475-5464.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order Nos. 916 (7 CFR Part 916) and 917 (7 CFR Part 917), regulating the handling of nectarines and fresh pears, plums, and peaches grown in California, respectively. These orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

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

There are approximately 649 handlers of nectarines, plums, and peaches subject to regulation under marketing orders, and approximately 2,032 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers may be classified as small entities.

Notice of this action was published in the **Federal Register** on February 26, 1988 (53 FR 5777). The comment period ended March 28, 1988. No comments were received.

Section 916.110(b) of the nectarine regulations specifies conditions which must be followed to handle nectarines exempt from certain requirements, including grade, size, inspection, container, marking, and assessment regulations. Section 917.143 of the regulations for pears, plums, and peaches specifies similar conditions and exemptions for these three commodities. Among other things, maximum weight limitations are specified. For all four commodities, the quantity sold for home use and not for resale to any one person during any one day cannot exceed 200 pounds. These purchases also must be for home use and cannot be resold.

Under these exemption requirements, a handler could sell a family of four 800 pounds each of nectarines, plums, pears, and peaches in any one day. The Nectarine Administrative Committee, and the Plum and Peach Commodity Committees assert that that amount of fruit is excessive for home use sales in view of the intent of these exemption provisions. The intent is to help small growers by permitting them to sell such fruit directly to the consumers at the premises where the fruit is grown, at a nearby packing house, retail stand, or at certified farmers' markets.

Under this final rule, the poundage limitation will be determined on a per vehicle rather than on a per person basis. Hence, a family of four using the family car could only purchase 200 pounds of each fruit in a day, rather than 800 pounds each under the current exemption requirements.

For perspective concerning the adequacy of the poundage limitation, it should be noted that the annual per capita consumption in 1985 of fresh nectarines, peaches, and plums and prunes was 1.68 pounds, 3.99 pounds, and 1.53 pounds, respectively. Hence, according to the committees, the regulation will still provide more than enough fruit to meet the home use needs of local consumers and will not have an adverse impact on those growers who find handling fruit for home use under these exemptions attractive. The change to a poundage limitation of 200 pounds based on one vehicle per day is consistent with the intent of the minimum quantity exemption authority.

This final rule also clarifies the roadside sales rule exemption for plums and peaches by specifically stating that the maximum poundage of 200 pounds applies to each fruit separately. This action is not necessary for the nectarine regulation since it covers only one commodity. The change was recommended by the peach and plum committees to avoid misinterpretation of the rule to mean that the 200-pound limit is a combined total for all three fruits covered by the regulation.

A proposed rule to change the poundage limitation to a per vehicle basis for pears was published in the **Federal Register** on March 24, 1988 (53 FR 9634). The comment period ends April 25, 1988.

Therefore, the Department's view is that the quantity limitations for each of the affected commodities are more than adequate for home usage, they will not

lessen the use of the roadside sales exemption by local consumers and growers, and the rule will have little, if any, impact on industry operations. Based on the above, the Administrator of the AMS has determined that the issuance of this final rule will not have a significant economic impact on a substantial number of small entities.

After consideration of the information and recommendations submitted by the committees and other available information, it is found that this action will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is hereby found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**. The harvest and shipment of the affected commodities are anticipated to begin during the mid-April through early May 1988 period, and it is important that the changes hereinafter set forth be in effect at the time of harvest and shipment so that all shipments are regulated similarly.

List of Subjects in 7 CFR Parts 916 and 917

Marketing agreements and orders, Nectarines, Pears, Plums, Peaches, California.

For the reasons set forth in the preamble, 7 CFR Parts 916 and 917 are amended as follows:

1. The authority citation for 7 CFR Parts 916 and 917 continues to read as follows:

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

PART 916—NECTARINES GROWN IN CALIFORNIA

2. Section 916.110 is amended by revising paragraph (b)(3) to read as follows:

§ 916.110 Exemption.

* * * * *

(b) * * *

(3) The net weight of such nectarines to any one vehicle during any one day does not exceed 200 pounds.

* * * * *

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

3. Section 917.143 is amended by revising paragraph (b)(3) to read as follows:

§ 917.143 Exemption.

* * * * *

(b) * * *

(3) The shipment does not exceed 200 pounds of plums and 200 pounds of peaches to any one vehicle during any one day, and does not exceed 200 pounds of pears to any one person during any one day.

* * * * *

Dated: April 25, 1988.

Robert C. Kenney,

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

[FR Doc. 88–9366 Filed 4–27–88; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 100

[INS Number: 1112–88]

Statement of Organization; Ports of Entry for Aliens Arriving by Vessel or by Land Transportation

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule designates Camden, New Jersey as a class "A" port of entry and further identifies the facility as a port of entry for all aliens. A full range of immigration services will be available at Camden, as the port will be regularly staffed by inspectors of the United States Immigration and Naturalization Service.

EFFECTIVE DATE: April 28, 1988.

FOR FURTHER INFORMATION CONTACT: Dwight S. Faulkner, Assistant Chief Inspector, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633–3995.

SUPPLEMENTARY INFORMATION: Under the present Service organization Philadelphia, Pennsylvania is one port of entry which includes, among others, the port facilities at Artificial Island, Billingsport, Deepwater Point, Fisher's Point, Gibbstown, Gloucester City, Paulsboro, and Trenton. These port facilities, excluding Philadelphia, are on the New Jersey side of the Delaware River, north or south of the proposed port at Camden, which is located 84 miles from the Newark District Office. During FY 87, 370 vessels carrying 8300 crewmen and 60 passengers were inspected at the above ports by officers of the Immigration and Naturalization Service. Currently these inspections are conducted by officers whose duty post is Philadelphia. The proposed port at Camden will be open daily from 8:00 a.m. to 4:30 p.m., thus providing a more efficient management of personnel and resources.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because this rule relates to agency management.

In accordance with 5 U.S.C. 605(b) the Commissioner of Immigration and Naturalization certifies that this final rule will not have a significant economic impact on a substantial number of small entities. This order is not a rule within the definition of section 1(a) of E.O. 12291 as it relates solely to agency management.

List of Subjects in 8 CFR Part 100

Administrative practice and procedure, Organization and functions (Government agencies).

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 100—STATEMENT OF ORGANIZATION

1. The authority citation for Part 100 is revised to read as follows:

Authority: 66 Stat. 173; 8 U.S.C. 1103.

2. In § 100.4(c)(2) districts No. 4 and No. 21 are revised as follows:

§ 100.4 Field Service.

* * * * *

(c) * * *

(2) * * *

District No. 4—Philadelphia, PA.

Class A

Erie, Pa.

Philadelphia, Pa. (the port of Philadelphia includes, among others, the port facilities at Delaware City, Lewes, New Castle, and Wilmington, Del.; and at Chester, Essington, Fort Mifflin, Marcus Hook, and Morrisville, Pa.)

* * * * *

District No. 21—Newark, NJ.

Class A

Camden, N.J. (the port of Camden includes among others, the port facilities at Artificial Island, Billingsport, Deepwater Point, Fisher's Point, Gibbstown, Gloucester City, Paulsboro, and Trenton, N.J.)

Newark, N.J. (the port of Newark includes among others, the port facilities at Bayonne, Carteret, Edgewater, Elizabeth, Hoboken, Jersey City, Linden, Perth Amboy, Port Newark, Sewaren, and Weehawken, N.J.)

* * * * *

Dated: April 12, 1988.

Richard E. Norton,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 88-9307 Filed 4-27-88; 8:45 am]

BILLING CODE 4410-10-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220, 221 and 224

Regulations G, T, U and X; Securities Credit Transactions; List of Marginable OTC Stocks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; determination of applicability of regulations.

SUMMARY: The List of Marginable OTC Stocks is comprised of stocks traded over-the-counter (OTC) that have been determined by the Board of Governors of the Federal Reserve System to be subject to the margin requirements under certain Federal Reserve regulations. The List is published four times a year by the Board as a guide for lenders subject to the regulations and the general public. This document sets forth additions to or deletions from the previously published List effective February 8, 1988, and will serve to give notice to the public about the changed status of certain stocks.

EFFECTIVE DATE: May 9, 1988.

FOR FURTHER INFORMATION CONTACT: Peggy Wolffrum, Securities Regulation Analyst, Division of Banking Supervision and Regulation, (202) 452-2781. For the hearing impaired *only*, Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf (TDD) (202) 452-3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Set forth below are stocks representing additions to or deletions from the Board's List of Marginable OTC Stocks. A copy of the complete List incorporating these additions and deletions is available from the Federal Reserve Banks. This List supersedes the last complete List which was effective February 8, 1988. (Additions and deletions for that List were published at 53 FR 2998, February 3, 1988). The current List includes those stocks that meet the criteria specified by the Board of Governors in Regulations G, T, U and X (12 CFR Parts 207, 220, 221 and 224, respectively). These stocks have the degree of national investor interest, the depth and breadth of market, and the availability of information respecting the stock and its issuer to warrant regulation in the same fashion as exchange-traded securities. The List also includes any stock designated under an SEC rule as qualified for trading in the national market system (NMS Security). Additional OTC stocks may be designated as NMS securities in the interim between the Board's quarterly publications. They will become automatically marginable at broker-dealers upon the effective date of their NMS designation. The names of these stocks are available at the Board and the Securities and Exchange Commission and will be incorporated into the Board's next quarterly List.

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and continued inclusion on the List specified in 12 CFR 207.6 (a) and (b), 220.17 (a) and (b), and 221.7 (a) and (b). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of this List as soon as possible. The Board has responded to a request by the public and allowed a two-week delay before the List is effective.

List of Subjects

12 CFR Part 207

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 220

Banks, Banking, Brokers, Credit, Federal Reserve System, Margin, Margin requirements, Investments, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 221

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 224

Banks, Banking, Borrowers, Credit, Federal Reserve System, Margin, Margin requirements, Reporting and recordkeeping requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), and in accordance with 12 CFR 207.2(k) and 207.6(c) (Regulation G), 12 CFR 220.2(s) and 220.17(c) (Regulation T), and 12 CFR 221.2(j) and 221.7(c) (Regulation U), there is set forth below a listing of deletions from and additions to the Board's List:

Deletions From List

Stocks Removed for Failing Continued Listing Requirements

American Cruise Lines, Inc.
$.01 par common
Barton Industries, Inc.
$.01 par common
Brentwood Instruments, Inc.
No par common
Burnham Service Corporation
No par common
Burton/Hawks, Inc.
.01 par common
Cel Communications, Inc.
$.01 par common
Chesapeake Industries, Inc.
$1.00 par common
Commonwealth Savings Association
No par common
Community Savings Bank
$.10 par common
Community Shares Ltd.
$.10 par common
Continental Federal Savings & Loan Association (Oklahoma)
$.01 par common
Control Laser International Corporation
$.01 par common
CPL Real Estate Investment Trust
No par shares of beneficial interest
Craft World International, Inc.
$.01 par common
Cushman Electronics, Inc.
No par common
Delta Data Systems Corp.
$.01 par common
Desinghouse International, Inc.
$.10 par common
Diversified Human Resources Group, Inc.
$.10 par common
Eldorado Motor Corporation
No par common
Equipment Company of America Inc.
$.10 par common
First Interstate Corporation of Alaska
$2.00 par common
Florafax International, Inc.
$.06⅔ par common
General Kinetics Incorporated
$.25 par common
IDC Services Inc.
$.25 par common
Magma Energy, Inc.
$.02 par common

Melridge, Inc.
$.01 par common
Merchant Bank of California, The
No par common
Mid Pacific Air Corporation
No par common
National Royalty Corporation
$.01 par common
Neti Technologies Inc.
No par common
Northview Corporation
$.01 par common
Nova Pharmaceutical Corp.
Class A, warrants (expire 02-05-88)
Occidental/Nebraska Federal Savings Bank
$1.00 par common
Occupational Medical Corporation of America, Inc.
No par common
Paperboard Industries Corporation
No par common
Po Folks, Inc.
$.10 par common
Poe & Associates, Inc.
$.10 par common
Pre-Paid Legal Services, Inc.
Warrants (exp. 11-30-88)
Preway Inc.
$.50 par common
Pullman Company
Warrants (exp. 02-24-88)
Roadrunner Enterprises, Inc.
No par common
Rockwood National Corporation
No par common
Savoy Industries, Inc.
$.01 par common
Shatterproof Glass Corporation
$.50 par common
Shoreline Savings Bank
$.50 par common
Sigmaform Corporation
$.11335 par common
Stewart Sandwiches, Inc.
$1.00 par common
Sunworld International Airways, Inc.
$.20 par common
Telemation, Inc.
$.01 par common
Tots Plus, Inc.
$.01 par common
Triton Energy Corporation
Warrants (expire 11-15-89)
Triton Group Ltd.
Series C, $1.20 par convertible preferred
Video Library, Inc.
No par common
Waste Technology Corp.
$.01 par common
Westwood Group, Inc., The
$.01 par common

Stocks Removed for Listing on a National Securities Exchange or Being Involved in an Acquisition

Aaron Brothers Art Marts, Inc.
$.01 par common
Addison-Wesley Publishing Company, Inc.
Class B, no par common
Allied Bancshares, Inc. (Texas)
$1.00 par common
Alternacare Corporation
$.05 par common
Apple Bank for Savings (New York)
$1.00 par common
Baltimore Bancorp (Maryland)
$5.00 par common
Barr Laboratories, Inc.
$.01 par common
Birmingham Steel Corporation
$.01 par common
BR Communications
No par common
Buffton Corporation
$.05 par common
Businessland, Inc.
No par common
5½% convertible subordinated debentures
8% convertible subordinated debentures
California Energy Company, Inc.
$.0675 par common
Calny, Inc.
$.01 par common
Careercom Corporation
$.01 par common
CCC Information Services, Inc.
$.01 par common
Central Bancorporation, Inc. (Ohio)
$5.00 par common
Central Wisconsin Bankshares, Inc.
$.50 par common
Chase Medical Group, Inc.
$.01 par common
Collins Industries, Inc.
$.10 par common
Columbia Pictures Entertainment
$.10 par common
Warrants (expire 06-01-92)
Warrants (expire 12-31-93)
Craft House Corporation
$.10 par common
Cycare Systems, Inc.
$.01 par common
Crossland Savings, FSB (New York)
$1.00 par common
Series A, cumulative convertible preferred
Series B, $12.75 cumulative preferred
Dicomed Corporation
$.03 par common
Dime Savings Bank of New York, F.S.B.
$1.00 par common
Dixon Ticonderoga Company
$1.00 par common
EMC Corporation
$.01 par common
Essex Communications Corporation
Class A, $.01 par common
First Empire State Corporation
$5.00 par common
Fidelcor, Inc.
$1.00 par common
Series A, $1.00 par convertible preferred
Series B, $1.00 par convertible preferred
First Fidelity Bancorporation
Series C, $4.00 par cumulative convertible preferred
First Republic Bancorp, Inc.
$.01 par common
First Jersey National Corporation
$5.00 par common
Series B, $1.00 par cumulative convertible preferred
First Valley Corporation
$1.00 par common
Florida Commercial Banks, Inc.
$1.00 par common
Frost & Sullivan, Inc.
$.01 par common
Gainsco, Inc.
$.01 par common
Genentech, Inc.
$.02 par common
Genmar Industries, Inc.
$.01 par common
Gibson, C.R. Company, The
$.10 par common
Great Western Savings Bank
$.01 par common
Horizons Research, Inc.
No par common
Incstar Corporation
$.01 par common
Innovative Software Inc.
$.01 par common
International Telecharge, Inc.
$.01 par common
Iverson Technology Corp.
$.01 par common
Kincaid Furniture Company, Inc.
$1.33⅓ par common
Life Investors Inc.
$1.00 par common
Linear Corporation
$.01 par common
Marine Corp. (Wisconsin)
$2.50 par common
Metrobank N.A. (California)
$1.66 par common
Morgan Products Ltd.
$.10 par common
North American Communications Corporation
$.01 par common
Norwesco, Inc.
$.10 par common
Owens and Minor Inc.
$2.00 par common
Paco Pharmaceutical Services, Inc.
Warrants (expire 12-31-88)
Rowley-Scher Reprographics, Inc.
$.01 par common
Royal Apex Silver, Inc.
$.05 par common
Scientific Systems Services, Inc.
$.01 par common
Seaman Furniture Company, Inc.
$.01 par common
Shawmut Corporation

$5.00 par common
Shoe City Corporation
$.10 par common
Software AG Systems, Inc.
$.01 par common
Spartech Corporation
$.75 par common
Stanadyne, Inc.
$2.50 par common
Sunstates Corporation
$.10 par common
$25.00 par preferred
Sylvan Learning Corp.
$.01 par common
Symbol Technologies, Inc.
$.01 par common
System Integrators, Inc.
No par common
Tenera, L. P.
Units of limited partnership interest
Westcorp
$1.00 par common

Additions to the List

Addington Resources, Inc.
No par common
Advantage Companies, Inc.
$1.00 par common
Warrants (expire 10–13–89)
Alliance Imaging Inc.
$.01 par common
Altera Corporation
No par common
American Consulting Corporation, Inc.
$.01 par common
Atlantic Group, Inc., The
$.05 par common
Avondale Industries, Inc.
$1.00 par common
Belmoral Mines Ltd.
No par common
Biotherapeutics Incorporated
Series A, $1.00 par convertible preferred
Bull Run Gold Mines, Ltd.
$.01 par common
Central Corporation
$.01 par common
Charter One Financial, Inc.
$.01 par common
Comerica Inc.
Series B, $4.32 par cumulative convertible preferred
Compucom Systems, Inc.
No par common
CXR Telcom Corporation
$.0033 par common
CYTRX Corporation
$.001 par common
Warrants (expire 11–09–91)
Datakey, Inc.
$.05 par common
Eastern Environmental Services, Inc.
$.01 par common
Eastmaque Gold Mines Ltd.
No par common
Empire Insurance Company
$1.00 par common
Epitope, Inc.
No par common
Evansville Federal Savings Bank (Indiana)
$1.00 par common
Exploration Company of Louisiana, Inc., The
$.01 par common
Fair, Isaac and Company, Incorporated
$.01 par common
First Franklin Corporation
$.01 par common
First Work Cheese, Inc.
$.01 par common
Warrants (expire 06–05–91)
GBC Bancorp (California)
No par common
Geraghty & Miller, Inc.
$.01 par common
Green, A.P. Industries, Inc.
$1.00 par common
Holiday RV Superstars, Inc.
$.01 par common
Home Federal Savings Bank (Indiana)
$.01 par common
International Consumer Brands, Inc.
$.01 par common
Iowa National Bankshares Corp.
$12.50 par common
Jaco Electronics, Inc.
$.10 par common
Jones Spacelink, Ltd.
Class A, $.01 par common
JRM Holdings, Inc.
$.01 par common
Kimmons Environmental Service Corp.
$.001 par common
Maione-Hirschberg Companies, Inc.
No par common
Mallard Coach Company, Inc.
$.01 par common
Max & Erma's Restaurants, Inc.
$.10 par common
Warrants (expire 10–07–88)
Maxim Integrated Products, Inc.
$.001 par common
Midfed Savings Bank (Ohio)
$.01 par common
Mobile National Corporation
$1.00 par common
Monmouth Real Estate Investment Trust
No par common
Moto Photo, Inc.
$.01 par cumulative convertible preferred
Warrants (expire 11–25–89)
Mutual Federal Savings Bank, A Stock Corp. (Ohio)
$1.00 par common
N–W Group, Inc.
$.01 par common
Nevada Goldfields Corporation
No par common
New York Bancorp, Inc.
$.01 par common
Octel Communications Corporation
No par common
Osborn Communications Corporation
$.01 par common
Peoples Federal Savings Bank of DeKalb County
$1.00 par common
Polifly Financial Corporation
$.10 par common
Portsmouth Bankshares, Inc. (New Hampshire)
$.10 par common
Repap Enterprises Corporation
Subordinated, voting common stock
Republic Bancorp Inc. (Michigan)
$5.00 par common
Royal Bank of Pennsylvania
Class A, $2.00 par common
Sanderson Farms, Inc.
$1.00 par common
Sellersville Savings and Loan Association (Pennsylvania)
$1.00 par common
Southern Mineral Corporation
$.01 par common
Taylor, S. Companies, Inc.
$.001 par common
Timberline Software Corporation
No par common
Trans Financial Bancorp, Inc. (Kentucky)
No par common
Tudor Corporation Ltd.
No par common
US West Newvector Group, Inc.
Class A, no par common
Vanguard Cellular Systems, Inc.
$.01 par common
Varitronic Systems, Inc.
$.01 par common
Vitalink Communications Corporation
$.01 par common
Wisconsin Toy Company, Inc.
$.01 par common
Z–Seven Fund, Inc., The
$1.00 par common

By order of the Board of Governors of the Federal Reserve System acting by its Staff Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)(18)), Apr. 25, 1988.

William W. Wiles,
Secretary of the Board.

[FR Doc. 88–9302 Filed 4–27–88; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

[Docket No. 71269–8062]

Direct Investment Surveys: Raising Exemption Levels for the BE–605 and BE–606B Surveys

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Final rule.

SUMMARY: This final rule amends 15 CFR Part 806 by raising the exemption levels for two mandatory surveys of foreign direct investment in the United States conducted by the Bureau of Economic Analysis (BEA). The two surveys are quarterly survey BE-605, Transactions of U.S. Affiliate, Except an Unincorporated Bank, with Foreign Parent, and quarterly survey BE-606B, Transactions of U.S. Banking Branch or Agency with Foreign Parent. Under this rule, the exemption level for each survey is raised from $15 million to $20 million.

These changes will reduce the number of survey reports filed, thus significantly reducing the reporting and processing burden.

EFFECTIVE DATE: This rule will be effective May 31, 1988.

FOR FURTHER INFORMATION CONTACT: Betty L. Barker, Chief, International Investment Division (BE-50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 523-0659.

SUPPLEMENTARY INFORMATION: In the February 16, 1988, **Federal Register**, Volume 53, No. 30, 53 FR 4420, the Bureau of Economic Analysis published a notice of proposed rulemaking to raise the exemption levels for two mandatory surveys of foreign direct investment in the United States. No comments on the proposed rule were received. Thus, this final rule is the same as the proposed rule.

The two surveys—the BE-605 and BE-606B quarterly surveys—for which exemption levels are raised under this final rule are part of BEA's regular data collection program for foreign direct investment in the United States. These surveys are mandatory under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101-3108).

The exemption level for a given survey is the level of a U.S. affiliate's assets, sales, or net income below which reporting is not required. (A U.S. affiliate is a U.S. business enterprise in which a foreign person owns or controls, directly or indirectly, 10 percent or more of the voting securities if an incorporated business enterprise or an equivalent interest if an unincorporated business enterprise.) Raising the exemption level lowers the number of reports to be filed, and will significantly reduce both the reporting burden on U.S. businesses and the processing burden on BEA.

Under this final rule, the exemption level for the two surveys is raised to $20 million. The previous exemption level for each survey was $15 million.

The $20 million level is the same as that being used in the BE-12, Benchmark Survey of Foreign Direct Investment in the United States—1987, to determine whether a U.S. affiliate must file a long form (Form BE-12(LF)) or a short form (Form BE-12(SF)). Completed BE-12(LF) or (SF) reports are due May 31, 1988. The BE-12 is BEA's census of foreign direct investment in the United States and is intended to cover the universe of all U.S. affiliates. The BE-605 and -606B, in contrast, are sample surveys covering only the larger U.S. affiliates. The sample data reported in these surveys will be linked to data from the BE-12 benchmark survey in order to derive universe estimates for nonbenchmark years.

The rule will be effective with the BE-605 and -606B reports covering the second quarter of 1988, which are due 30 days after the close of that quarter.

Executive Order 12291

BEA has determined that this rule is not "major" as defined in E.O. 12291 because it is not likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

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

Paperwork Reduction Act

The collection of information requirements in this final rule have been approved by the Office of Management and Budget (OMB Nos. 0608-0009 and 0608-0023).

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to preparation of an initial regulatory flexbility analysis are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The rule raises exemption levels, thereby reducing reporting requirements of small entities.

Accordingly, the General Counsel, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 15 CFR Part 806

Balance of payments, Economic statistics, Foreign investment in the United States, Reporting and recordkeeping requirements.

Dated: April 4, 1988.

Allan H. Young,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, 15 CFR Part 806 is amended as follows:

PART 806—[AMENDED]

1. The authority citation for 15 CFR Part 806 continues to read as follows:

Authority: 5 U.S.C. 301, 22 U.S.C. 3101-3108, and E.O. 11961, as amended.

§ 806.15 [Amended]

2. In § 806.15(h)(1), the exemption level of $15,000,000 is changed to read "$20,000,000."

3. In § 806.15(h)(2), the exemption level of $15,000,000 is changed to read "$ 20,000,000."

[FR Doc. 88-9421 Filed 4-27-88; 8:45 am]

BILLING CODE 3510-06-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2 and 284

[Docket Nos. RM87-34-000 et al.; Order No. 500]

Regulation of Natural Gas Pipelines After Partial Decontrol; Availability of Transcript and Questions

April 22, 1988.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of availability of transcript and questions.

SUMMARY: The Federal Energy Regulatory Commission (Commission) held a public hearing on April 11-12, 1988, on Order No. 500, Docket No. RM87-34, Regulation of Natural Gas Pipelines after Partial Decontrol (52 FR 8439, March 15, 1988). During the hearing, the Chairman and the Commissioners addressed questions to the participants, who were requested to submit their responses in writing subsequent to the hearing. Additionally, after the public hearing the Commissioners submitted a list of questions for response by the public. A copy of the transcript of the hearing and the list of questions are available in the Commission's Public Reference Room.

DATE: Anyone wishing to respond to the questions must submit responses by May 27, 1988.

ADDRESS: An original and 14 copies of the responses to the questions must be filed with the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Julia Lake White, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 357-8530.

SUPPLEMENTARY INFORMATION: Copies of the transcript of the hearing and the list of the questions submitted subsequent to the public hearing held on April 11-12, 1988, are available from the Public Reference Room, Federal Energy Regulatory Commission, Room 1000, 825 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-9461 Filed 4-27-88; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 86F-0489]

Secondary Direct Food Additives Permitted in Food for Human Consumption; Boiler Water Additives

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of poly(acrylic acid-*co*-hypophosphite), sodium salt (a 4:1 to 16:1 monomer ratio by weight) as a boiler water additive. This action responds to a petition filed by Ciba-Geigy Corp.

DATES: Effective April 28, 1988; objections by May 31, 1988.

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

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-5487.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of February 3, 1987 (52 FR 3350), FDA announced that a food additive petition (FAP 7A3975) had been filed by Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532, proposing that § 173.310 *Boiler water additives* (21 CFR 173.310) be amended to provide for the safe use of poly(acrylic acid-*co*-hypophosphite), sodium salt (a 4:1 to 16:1 monomer ratio by weight) as a boiler water additive.

FDA has evaluated data in the petition and other relevant material, and has concluded that the proposed use of the food additive is safe, and that the regulations in 21 CFR 173.310 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

Any person who will be adversely affected by this regulation may at any time on or before May 31, 1988, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 173

Food additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, Part 173 is amended as follows:

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR Part 173 is revised to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10, 5.61.

§ 173.310 [Amended]

2. Section 173.310 *Boiler water additives* is amended in paragraph (c) in the table under "Substances" by adding the phrase "to a 16:1" after "4:1" in the entry for "Poly(acrylic acid-*co*-hypophosphite), sodium salt * * *."

Dated: April 15, 1988.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 88-9340 Filed 4-27-88; 8:45 am]

BILLING CODE 4160-01-M

---

21 CFR Part 178

[Docket No. 86F-0435]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of *N,N'*-1,3-propanediylbis(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamamide) as an antioxidant in rubber articles intended for repeated use in contact with food.

This action responds to a petition filed by Ciba-Geigy Corp.

DATES: Effective April 28, 1988; objections by May 31, 1988.

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

FOR FURTHER INFORMATION CONTACT: Vir Anand, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HHF-335), 200 C St., SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of December 23, 1986 (51 FR 45955), FDA announced that a petition (FAP 7B3970) had been filed by Ciba-Geigy Corp., Three Skyline Drive, Hawthorne, NY 10532, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of *N,N'*-1,3-propanediylbis(3,5-di-*tert* buty-l4-hydroxyhydrocinnamamide) as an antioxidant in closures with sealing gaskets intended to contact food and in rubber articles intended for repeated use in contact with food. Subsequently, the petitioner withdrew its request for the use of the additive in closures with sealing gaskets and requested amendment of § 178.2010 to provide only for the use of the additive in rubber articles intended for repeated use in contact with food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use of the additive is safe, and that the regulations should be amended in 21 CFR 178.2010(b) as set forth below.

In accordance with § 171.1(h) (21 CFR 171.(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under the FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

Any person who will be adversely affected by this regulation may at any time on or before May 31, 1988 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing or that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore under the Federal Food, Drug and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, Part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR Part 178 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 178.2010 is amended in paragraph (b) by alphabetically inserting a new entry in the table to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * *	* *
N,N'-1,3-Propanediylbis (3,5-di-*tert*-butyl-4-hydroxyhydrocinnamamide) (CAS Reg. No. 69851-61-2).	For use only at levels not to exceed 0.6 percent by weight of rubber articles for repeated use complying with § 177.2600 of this chapter.
* * *	* *

Dated: April 15, 1988.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 88-9339 Filed 4-27-88; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8197]

Income Taxes; Corporate Alternative Minimum Tax Book Income Adjustment of Foreign Corporations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides rules for computing the alternative minimum tax adjustment for the book income of foreign corporations. Changes to the applicable law were made by the Tax Reform Act of 1986. These regulations affect corporate taxpayers and provide them with guidance necessary to determine their alternative minimum tax liability.

In addition, the text of the temporary regulations set forth in this document also serves as the text to the proposed regulations cross-referenced in a notice of proposed rulemaking in the Proposed Rules section of this issue of the **Federal Register**.

EFFECTIVE DATE: Taxable years beginning after December 31, 1986.

FOR FURTHER INFORMATION CONTACT: Timothy J. McKenna of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, Attention: CC:LR:T (LR-54-87), Telephone 202-566-3287 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations relating to the book income adjustment to the corporate alternative minimum taxable income of foreign corporations under section 56(c)(1) and section 56(f) of the Internal Revenue Code of 1986 (Code), as amended by section 701 of the Tax Reform Act of 1986 (Pub. L. 99–514, 100 Stat. 2320). The temporary regulations provided by this document remain in effect until superseded by final regulations on these subjects.

These temporary regulations are intended to address only the issues raised by section 56 relating to the book income adjustment of foreign corporations. No inference should be drawn regarding in issues not expressly addressed in the regulations. In addition, unless otherwise stated, no inference should be drawn from the issues addressed in these regulations to the determination of the book income adjustment by United States corporate taxpayers.

Explanation of Provisions

In General

Section 882 of the Code, as amended by the Tax Reform Act of 1986, provides that for taxable years beginning after December 31, 1986, a foreign corporate taxpayer (foreign taxpayer) engaged in a trade or business in the United States during the taxable year shall be taxable as provided in section 55, relating to the alternative minimum tax, on its taxable income that is effectively connected with the conduct of a trade or business in the United States. Under section 56(c)(1) of the Code, a foreign taxpayer, when computing corporate alternative minimum taxable income for purposes of determining its alternative minimum tax for taxable years beginning in 1987, 1988, and 1989, must include an adjustment for the net book income of such taxpayer (the "book income adjustment").

Section 56(f)(1) provides that the book income adjustment is computed by increasing alternative minimum taxable income by 50 percent of the amount (if any) by which the adjusted net book income of the taxpayer exceeds alternative minimum taxable income for the taxable year (determined without regard to the book income adjustment and the alternative minimum tax net operating loss deduction). Adjusted net book income equals the net book income of the taxpayer shown on its applicable financial statement with certain adjustments. In general, a taxpayer's applicable financial statement is its financial statement that has the highest priority, determined in the following order: (a) A financial statement required to be filed with the Securities and Exchange Commission; (b) a certified audited financial statement used for credit purposes, for disclosure to shareholders or for any other substantial non-tax purpose; (c) a financial statement (but not a tax return) that is required to be provided to the Federal government or an agency thereof, a state government or an agency thereof, or a political subdivision of a state or an agency thereof; or (d) any other financial statement used as a statement for credit purposes, for reporting to shareholders, or for any other substantial non-tax purpose (an unaudited financial statement). If a taxpayer does not have any financial statement, or only has an unaudited financial statement and makes an election, the book income adjustment is computed using current earnings and profits.

On April 28, 1987, the **Federal Register** (52 FR 15305) published temporary regulations under sections 56 (c)(1) and (f) of the Code (T.D. 8138) that provide guidance for computing the alternative minimum tax book income adjustment. Those temporary regulations did not address all issues relating to the computation of the book income adjustment by a foreign taxpayer. Section 1.56–1T(c)(5)(ii), relating to the applicable financial statement of a foreign taxpayer conducting a trade or business in the United States, was specifically reserved.

Net Book Income of a Foreign Taxpayer

Generally, § 1.56–1T(b) of the temporary regulations, relating to the determination of net book income, is applicable in determining the net book income of a foreign taxpayer. however, § 1.56–1T(b) is amended by these temporary regulations to provide that in the case of a foreign taxpayer net book income is limited to the income or loss reported on the applicable financial statement of the foreign taxpayer that is effectively connected with the conduct of a trade or business in the United States ("effectively connected net book income").

Effectively connected net book income includes book income or loss attributable to an item that would be treated as effectively connected under the principles of section 864(c), or any other applicable provision of the Code and the regulations thereunder. For example, if for tax purposes the disposition of a United States real property interest would be treated as effectively connected with a trade or business in the United States under section 897, then the book gain or loss attributable to such disposition would be treated as effectively connected net book income.

Effectively connected net book income does not include any amount of book income or loss attributable to an item that would qualify as effectively connected with the conduct of a trade or business in the United States under section 864 (c) but for a specific exclusion in any provision of the Code. Consequently, effectively connected net book income does not include any amount attributable to exempt foreign trade income of a foreign sales corporation (FSC) that is treated as foreign source income that is not effectively connected with the conduct of a trade or business in the United States under section 921(a) and the regulations thereunder. However, dividends paid by a FSC may be includible in the net book income of the dividend recipient under the rules of § 1.56–1T(b)(2)(iv) of the temporary regulations.

Effectively connected net book income also excludes any amount that is attributable to income that qualifies as effectively connected with the conduct of a trade or business in the United States but that is exempt from United States taxation under section 894 of the Code, relating to amounts exempt under the provision of a United States income tax treaty. In addition, effectively connected book income excludes amounts that are exempt from United States taxation under sections 883, 892 and 895 of the Code.

Section 1.56–1T(b)(5) provides that if a taxpayer does not have an applicable financial statement, or only has an unaudited financial statement and makes the election described in § 1.56–1T(c)(2), net book income equals current earnings and profits for the taxable year. The temporary regulations are revised to provide that under these circumstances, a foreign taxpayer shall use effectively connected earnings and profits rather than current earnings and profits. Effectively connected earnings and profits are computed using the rules of section 884(d), relating to effectively connected earnings and profits for purposes of the branch profits tax. However, in computing effectively connected earnings and profits for purposes of the book income adjustment, the exceptions set forth under section 884(d)(2) (B) through (D) are not applicable.

Applicable Financial Statement of a Foreign Taxpayer

The rules set forth in § 1.56–1T(c) of the temporary regulations, relating to the determination of the applicable financial statement for purposes of computing the book income adjustment, generally apply in determining the applicable financial statement of a foreign taxpayer conducting a trade or business in the United States. However, § 1.56–1T(c)(5)(ii) is amended to provide special rules for determining the applicable financial statement of a foreign taxpayer.

Under § 1.56–1T(c)(5)(ii), the applicable financial statement of a foreign taxpayer is the statement prepared by its United States trade or business that has the highest priority under § 1.56–1T(c)(3). Section 1.56–1T(c)(1)(ii) is revised to provide that a statement will be a certified audited statement if it is certified to be fairly presented by either an independent Certified Public Accountant, or a similarly qualified professional in any foreign country. Section 1.56–1T(c)(5)(ii)(B)(*1*) clarifies that an applicable financial statement of a foreign taxpayer may be prepared under the generally accepted accounting principles of a foreign country. However, under § 1.56–1T(c)(5)(ii)(B)(*2*), a financial statement must be prepared in United States dollars to be considered as an applicable financial statement.

Section 1.56–1T(c)(5)(ii)(C) provides special priority rules if a foreign taxpayer has more than one financial statement of equal priority. Under § 1.56–1T(c)(5)(ii)(C)(*1*), the applicable financial statement of a foreign taxpayer that has more than one financial statement of equal priority reporting on the same United States trades or businesses is the financial statement that reports the greatest amount of adjusted net book income. If, however, the financial statements report on different trades or businesses, § 1.56–1T(c)(5)(ii)(C)(*2*) provides that the applicable financial statement is that financial statement reflecting the greatest amount of gross receipts attributable to United States trades or businesses. If after applying § 1.56–1T(c)(5)(ii)(C)(*2*) the taxpayer still has financial statements of equal priority, the applicable financial statement is that financial statement resulting in the greatest amount of adjusted book income.

If a United States trade or business of a foreign taxpayer modifies its financial reporting and the principal purpose of such action is to reduce adjusted net book income, § 1.56–1T(c)(5)(ii)(D) provides that the District Director may, based on all the facts and circumstances, determine the taxpayer's applicable financial statement.

Adjustments to Net Book Income of a Foreign Taxpayer

The rules of § 1.56–1T(d) of the temporary regulations, relating to adjustments to net book income, apply when determining the net book income adjustment of a foreign taxpayer. However, a new § 1.56–1T(d)(7) is added to provide for special adjustments to net book income for foreign taxpayers. These rules require a foreign taxpayer to include any effectively connected net book income of the foreign taxpayer that is not reported on the applicable financial statement, and to exclude any amount reported on the applicable financial statement that is not treated as effectively connected net book income. For example, if the applicable financial statement of a foreign taxpayer only reports on one of its two businesses conducted in the United States, the effectively connected net book income amount reported on the applicable financial statement must be adjusted to include amounts attributable to income effectively connected to the operation of the other business in the United States.

Special Analyses

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not apply, and no Regulatory Flexibility Analysis is required for this rule. The Commissioner of Internal Revenue has determined that this temporary rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required.

Drafting Information

The principal author of these temporary regulations is Margaret M. O'Connor of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR 1.01–1.58–8

Income taxes, Tax liability, Tax rates, Credits.

Adoption of Amendments to the Regulation

Accordingly 26 CFR Part 1 is amended as follows:

PART 1—[AMENDED]

Paragraph 1. The authority for Part 1 continues to read in part:

Authority: 26 U.S.C. 7805 * * * Section 1.56–1T is also issued under 26 U.S.C. 56(f)(2)(H).

Par. 2. Section 1.56–0T is amended as follows:

1. Paragraph (b)(6) is redesignated as (b)(7).

2. A new (b)(6) is added immediately after paragraph (b)(5)(ii) to read as set forth below.

3. Paragraph (c)(5)(ii) is revised as set forth below.

4. A new paragraph (d)(7) is added immediately after paragraph (d)(6) to read as set forth below.

§ 1.56–0T Table of contents to § 1.56–1T, adjustment for book income of corporations (temporary).

* * * * *

(b) Adjusted net book income * * *

(6) Additional rules for computation of net book income of a foreign corporate taxpayer.

(i) Adjusted net book income of a foreign taxpayer.

(ii) Effectively connected net book income of a foreign taxpayer.

(A) In general.

(B) Certain exempt amounts.

(iii) Computation of net book income of a foreign taxpayer using current earnings and profits.

* * * * *

(c) Applicable financial statement. * * *

(5) Special rules. * * *

(ii) Applicable financial statement of a foreign taxpayer with a United States trade or business.

(A) In general.

(B) Special rules for applicable financial statement of a trade or business of a foreign taxpayer.

(C) Special rule for statements of equal priority.

(D) Anti-abuse rule.

* * * * *

(d) Adjustments to net book income. * * *

(7) Adjustments for foreign taxpayers with a United States trade or business.

(i) In general.

(ii) Example.

Par. 3. Section 1.56–1T is amended as follows:

1. In the last sentence of paragraph (b)(2)(iv), the phrase "(3) and (4)" is revised to read "(3), (4), and (9)".

2. Paragraph (b)(6) is redesignated paragraph (b)(7).

3. References to paragraph (b)(6) in the last sentence of paragraph (b)(2)(iii), the last sentence of (b)(2)(iv), the last

sentence of paragraph (b)(4)(i), the second sentence of paragraph (b)(4)(iii), and the second sentence of paragraph (b)(iv) are revised to read "paragraph (b)(7)".

4. A new paragraph (b)(6) is added to read as set forth below.

5. In redesignated paragraph (b)(7), Examples (9) through (14) are added to read as set forth below.

6. The second sentence of paragraph (c)(1)(ii) is revised as set forth below (the first sentence is republished for the convenience of the reader).

7. In the last sentence of paragraph (c)(4), the phrase "(4) and (5)" is revised to read "(4), (5), (19), and (20)".

8. The text for paragraph (c)(5)(ii) is added.

9. In paragraph (c)(6), Examples (15) through (21) are added to read as set forth below.

10. A new paragraph (d)(7) is added to read as set forth below.

§ 1.56-1T Adjustment for the book income of corporations (temporary)

* * * * *

(b) *Adjusted net book income*

* * *

(6) *Additional rules for computation of net book income of a foreign corporate taxpayer*—(i) *Adjusted net book income of a foreign taxpayer.* Adjusted net book income of a foreign corporate taxpayer ("foreign taxpayer") means the effectively connected net book income (as defined in paragraph (b)(6)(ii) of this section) of the foreign taxpayer, after taking into account the adjustments under the rules of paragraph (d) of this section.

(ii) *Effectively connected net book income of a foreign taxpayer*—(A) *In general.* Effectively connected net book income of a foreign taxpayer is the income or loss reported in its applicable financial statement (as defined in paragraph (c)(5)(ii) of this section), but only to the extent that such amount is attributable to items of income or loss that would be treated as effectively connected with the conduct of a trade or business in the United States by the foreign taxpayer as determined under either the principles of section 864(c) and the regulations thereunder, or any other applicable provision of the Internal Revenue Code of 1986. Thus, if for tax purposes an item or income or loss is treated as effectively connected with the conduct of a trade or business in the United States, then the income or loss reported on the foreign taxpayer's applicable financial statement attributable to such item is effectively connected net book income. See paragraph (b)(7), Examples (10), (11), and (12) of this section.

(B) *Certain exempt amounts.* Effectively connected net book income does not include any amount attributable to an item that is exempt from United States taxation under sections 894, 883, 892 or 895 of the Internal Revenue Code of 1986. See paragraph (b)(7), Examples (13) and (14) of this section.

(iii) *Computation of net book income of a foreign taxpayer using current earnings and profits.* If a foreign taxpayer does not have an applicable financial statement or only has a statement described in paragraph (c)(1)(iv) of this section and makes the election described in paragraph (c)(2) of this section, net book income for purposes of this section is equal to the foreign taxpayer's current earnings and profits that are attributable to income or loss that is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States. Effectively connected current earnings and profits are computed under the rules of section 884(d) and the regulations thereunder, relating to effectively connected earnings and profits for purposes of computing the branch profits tax, but without regard to the exceptions set forth under section 884(d)(2) (B) through (D). For purposes of this section, effectively connected current earnings and profits are not reduced by any remittances or distributions. Effectively connected current earnings and profits take into account Federal income tax expense and any foreign tax expense; however, see paragraph (d)(3) of this section for adjustments to net book income with respect to certain taxes.

(7) *Examples.* * * *

Example (9). Corporation I is a United States corporation with a 100 percent owned subsidiary, J, a foreign sales corporation (FSC). I uses a calendar year for both financial accounting and tax purposes. Income from J is consolidated in I's applicable financial statement. I and J do not file a consolidated tax return. In 1987, J pays a dividend to I of $100 out of J's earnings and profits. For purposes of this example, it is assumed that the distribution is made out of the profits attributable solely to foreign trade income determined through use of the administrative pricing rules of section 925(a)(1) and (2). Accordingly, the distribution is eligible for the 100 percent dividends received deduction under section 245(c). Although I's applicable financial statement is adjusted to eliminate income or loss attributable to J, the entire amount of the dividend distribution must be included in I's adjusted net book income pursuant to paragraph (b)(2)(iv) of this section.

Example (10). Corporation K is a foreign corporation incorporated under the laws of country X. K uses a calendar year for both financial accounting and tax purposes. In 1987, K actively conducts a real estate business, L, in the United States. The financial statement that is used as K's applicable financial statement (as determined under paragraph (c)(5)(ii) of this section) discloses total net income of $150. Of this amount, $100 is attributable to L's real estate business. $50 is attributable to dividends paid to L from its investment in certain securities. The securities investment is not connected with L's real estate business. Under the rules of section 864, only $100 is effectively connected to the conduct of a trade or business in the United States. Thus, K's effectively connected net book income for 1987 equals $100.

Example (11). Assume the same facts as in Example (10) except that K's applicable financial statement also discloses $75 attributable to investment real property located in the United States, so that the net income amount reported on the financial statement equals $225. The $75 of income is not effectively connected with the conduct of a trade or business in the United States. K, for regular tax purposes, makes an election under section 882(d) to treat this income as effectively connected with the conduct of a trade or business in the United States. As a result, K's effectively connected net book income for 1987 equals $175 ($100 + $75).

Example (12). Corporation M is a foreign corporation that actively conducts a manufacturing business, N, in the United States. M is a calendar year taxpayer for both financial accounting and tax purposes. In 1987, the financial statement that is used as M's applicable financial statement (as determined under paragraph (c)(5)(ii) of this section) reflects an anticipated loss from the sale of a division of N. For Federal income tax purposes the loss is not recognized in 1987, but rather is recognized in 1988 when M sells the division. In determining M's effectively connected net book income for 1987, the anticipated loss reported on M's 1987 applicable financial statement is taken into account because the reported loss is effectively connected to the conduct of a trade or business in the United States under the principles of section 864.

Example (13). Corporation O is a foreign corporation that is engaged in the international shipping business. O is incorporated under the laws of X. O is a calendar year taxpayer for both financial accounting and tax purposes. In 1987, O actively conducts a shipping business, P, within the United States. The statement that is used in 1987 as O's applicable financial statement (as determined under paragraph (c)(5)(ii) of this section) discloses income of $100 that is attributable to P's operation of ships in international traffic. Under section 864, $50 is effectively connected with the conduct of a trade or business in the United States. However, the United States income tax treaty with X exempts from United States income tax any income derived by a resident of X from the operation of ships in international traffic. Thus, pursuant to paragraph (b)(6)(ii)(B) of this section, no amount of P's income is includible in O's effectively connected net book income.

Example (14). Assume the same facts as in Example (13) except that there is no United States income tax treaty with X. However, X by statute exempts United States citizens and United States corporations from tax imposed by X on gross income derived from the operation of a ship or ships in international traffic. Under section 883(a), P's income of $50 that is effectively connected with the conduct of a trade or business in the United States is exempt from United States taxation. Thus, pursuant to paragraph (b)(6)(ii)(B)(*2*) of this section, no amount of P's income is includible in O's effectively connected net book income.

(c) *Applicable financial statement.* (1) *In general.* * * *

(ii) *Certified audited financial statement.* A certified audited financial statement that is used for credit purposes, for reporting to shareholders or for any other substantial non-tax purpose. Such statement must be certified by a Certified Public Accountant or a similarly qualified professional who is licensed in any foreign country and who is independent, as defined in the American Institute of Certified Public Accountants Professional Standards, Code of Ethics (ET), Section 101, or other similar standard in accordance with the standards of the profession in any foreign country. * * *

* * * * *

(5) *Special rules.* * * *

(ii) *Applicable financial statement of a foreign taxpayer with a United States trade or business*—(A) *In general.* The applicable financial statement of a foreign taxpayer conducting one or more trades or businesses in the United States is the financial statement prepared by any such trade or business (or attributable to more than one such trades or businesses) that has the highest priority as determined under paragraph (c)(3) of this section. See paragraph (c)(6), Example (15) of this section.

(B) *Special rules for applicable financial statement of a trade or business of a foreign taxpayer*—(*1*) *Financial statement prepared under foreign generally accepted accounting principles.* Subject to the rules of this section, a financial statement prepared by a United States trade or business using generally accepted accounting principles of a foreign country may be an applicable financial statement under this paragraph (c). See paragraph (c)(6), Example (16) of this section.

(2) Financial statement prepared in United States dollars. Except as provided in paragraph (c)(5)(ii)(D) of this section, the financial statement of a United States trade or business must be prepared in United States dollars in order to be considered the applicable financial statement of the foreign taxpayer under this paragraph (c). See paragraph (c)(6), Example (17) of this section.

(C) *Special rule for statements of equal priority.* If a foreign taxpayer has two or more financial statements of equal priority (determined under paragraphs (c)(3)(i) and (c)(3)(ii) of this section and this paragraph (c)(5)(ii)), the foreign taxpayer's applicable financial statement is determined under either paragraph (c)(5)(ii)(C) (*1*) or (*2*) of this section, whichever is applicable.

(*1*) *Two or more financial statements reporting on the same trades or businesses.* If two or more financial statements of equal priority report on the same United States trades or businesses, the applicable financial statement of the foreign taxpayer is determined under the rule of paragraph (c)(3)(iii) of this section. In applying this rule, adjusted net book income (as defined under paragraph (b)(6)(ii)(A) of this section) shall be used. Thus, the financial statement that results in the greatest amount of adjusted net book income is the foreign taxpayer's applicable financial statement.

(*2*) *Two or more financial statements reporting on different trades or businesses.* If two or more financial statements of equal priority report on different United States trades or businesses, the foreign taxpayer's applicable financial statement is—

(*i*) The financial statement that reflects the greatest amount of gross receipts attributable to United States trades or businesses, or

(*ii*) If after applying the rules of paragraph (c)(5)(ii)(C)(*2*)(*i*) of this section, the foreign taxpayer still has financial statements of equal priority, the rules of paragraph (c)(3)(iii) of this section apply (using effectively connected adjusted net book income).

See paragraph (c)(6), Example (18) of this section.

(D) *Anti-abuse rule.* The special rules of this paragraph (c)(5)(ii) will not apply if a trade or business conducted in the United States by a foreign taxpayer modifies its financial reporting and the principal purpose of such action is to reduce the amount of the book income adjustment. In such cases, the District Director may, based upon all the facts and circumstances, determine the taxpayer's applicable financial statement. See paragraph (c)(6), Example (21), of this section.

(6) *Examples.* * * *

Example (15). Corporation U is a foreign corporation incorporated in A. U is a calendar year taxpayer for both financial accounting and tax purposes. U actively conducts three real estate businesses, X, Y and Z, in the United States. In 1987, X prepares a certified audited financial statement that it provides to its United States creditor. In additon, in 1987, X, Y and Z each prepares unaudited financial statements that they provide to U for incorporation in U's worldwide financial statement. Under paragraph (c)(5)(ii)(A) of this section, U's applicable financial statement is the certified audited financial statement prepared by X. However, pursuant to paragraph (d)(7) of this section, an adjustment is required to include any of U's effectively connected net book income that is not included in X's certified audited financial statement (*e.g.*, the effectively connected net book income attributable to Y and Z).

Example (16). Corporation A is a foreign corporation incorporated in Z. A is a calendar year taxpayer for both financial accounting and tax purposes. A actively conducts a real estate business, B, in the United States. B prepares a certified audited financial statement for 1987 using the accounting principles of Z that it provides to A for incorporation into A's worldwide financial statement. In addition, B prepares a review statement for 1987 using United States generally accepted accounting principles that it provides to its United States creditors. Under paragraphs (c)(5)(ii)(A) and (c)(5)(ii)(B)(*1*) of this section, the financial statement prepared under the accounting principles of Z is the applicable financial statement.

Example (17). Assume the same facts as in Example (16) except that amounts are reported on B's certified audited financial statement in the currency of Z and amounts are reported on B's review statement in United States dollars. Since the review statement is prepared in United States dollars, under paragraph (c)(5)(ii)(B)(*2*) of this section, it is the applicable financial statement.

Example (18). Corporation C is a foreign corporation incorporated in Z. C is a calendar year taxpayer for both financial accounting and tax purposes. C actively conducts two real estate businesses, D and E, in the United States. D and E each separately prepare a certified audited financial statement for 1987 that they provide to their United States creditors. D's financial statement reports gross receipts of $100. E's financial statement reports gross receipts of $200. Under paragraph (c)(5)(ii)(C)(*2*) of this section, E's certified audited financial statement is the applicable financial statement and must be adjusted under the rules of paragraph (d)(7) of this section to include effectively connected book income attributable to D.

Example (19). F is a foreign corporation incorporated in X. F is a calendar year taxpayer for both financial accounting and tax purposes. F actively conducts a banking business, G, in the United States. G has been engaged in business in the United States since 1977. For the years 1977 through 1986, G

did not prepare a separate financial statement. However, each year G provided F with its books, records and other raw financial data. F used this data in preparing its worldwide financial statement. G provides F with its 1978 books and records on January 5, 1988, in accordance with its historic practice. On February 15, 1988, G prepares an unaudited financial statement for calendar year 1987 that it provides to F. The principal purpose of creating this financial statement is to reduce net book income. Under these facts, the financial statement provided by G is not intended to be reasonably relied upon by F in preparing its worldwide financial statement. Therefore, for purposes of computing net book income, G's financial statement has not been used for a substantial non-tax purpose.

Example (20). Assume the same facts as in Example (19) except that for purposes of preparing F's 1987 worldwide financial statement, G does not provide F with any raw financial data, and G only provides F with an audited financial statement that is prepared for a substantial non-tax purpose. Under these facts, the financial statement provided by G is intended to be relied upon by F in preparing its worldwide financial statement. Therefore, for purposes of computing net book income, G's financial statement has been used for a substantial non-tax purpose.

Example (21). Corporation H is a foreign corporation incorporated in I. H is a calendar year taxpayer for both financial accounting and tax purposes. H actively conduct a real estate business, J, in the United States. For the years 1976 through 1986, J prepared a certified audited financial statement using United States dollars that it provided to H. In 1987, J prepares a certified audited financial statement using the currency of I. The principal purpose of the modification of J's financial reporting is to reduce the amount of the book income adjustment. Given these facts, the District Director may determine that J's 1987 certified audited financial statement prepared in the currency of I is J's applicable financial statement for 1987, and such statement must be converted into United States dollars based upon the translation used to prepare the certified audited financial statement in the currency of I. Accordingly, the effectively connected net book income of J for 1987 is the effectively connected net book income reported on the financial statement that has been converted into United States dollars.

(d) *Adjustments to net book income.*

* * * * *

(7) *Adjustments for foreign taxpayers with a United States trade or business*—(i) *In general.* Pursuant to paragraph (b)(6) of this section, the book income adjustment with respect to a foreign taxpayer with a United States trade or business is computed based on the effectively connected net book income of the foreign taxpayer (as defined in paragraph (b)(6)(ii) of this section). The net book income amount reported on the applicable financial statement of the foreign taxpayer (as determined under paragraph (c)(5)(ii) of this section) must be adjusted to—

(A) Include effectively connected net book income attributable to a trade or business conducted in the United States by the foreign taxpayer that is not reported on the applicable financial statement. Such amounts shall be determined from a financial statement (determined under paragraph (c) of this section and adjusted under the rules of this paragraph (d)) that would have qualified as an applicable financial statement of such excluded trade or business or upon effectively connected earnings and profits (if the rules of paragraph (b)(6)(iii) of this section apply), and

(B) Exclude any amount reported on such applicable financial statement that does not qualify as effectively connected net book income.

See paragraph (d)(7)(ii), Example (1) of this section.

(ii) *Example.* The provisions of this paragraph may be illustrated by the following example.

Example. Foreign corporation A a calendar year taxpayer for financial accounting and tax purposes, is incorporated in X. A actively conducts two real estate businesses, B and C, in the United States. B prepares a certified audited financial statement that it provides to its United States creditor. C does not prepare a financial statement. The certified audited financial statement prepared by B is treated as A's applicable financial statement under paragraph (c)(5)(ii) of this section. B's certified audited financial statement, in addition to amounts related to the conduct of its real estate business, also reports income received from its investment in United States securities, unrelated to its conduct of business in the United States that does not qualify as effectively connected net book income. In order to determine A's effectively connected net book income from the net book income reported on the applicable financial statement, such statement must be adjusted to exclude amounts attributable to the securities. In addition, book income or loss attributable to C, to the extent effectively connected to its business in the United States, must be included in the effectively connected net book income reported on B's financial statement. Since C does not have a financial statement, C's effectively connected net book income is determined by computing its effectively connected earnings and profits under paragraph (b)(6)(iii) of this section.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Approved: April 14, 1988.

O. Donaldson Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 88-9434 Filed 4-27-88; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 105

[DoD Directive 1400.33]

Employment and Volunteer Work of Spouses of Military Personnel

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This part specifies that no DoD official shall, directly or indirectly, interfere with the right of spouses of military members to choose to pursue and hold a job, attend school, or perform volunteer services on or off a military installation. Nor shall their decisions, or the marital status of military members, affect, favorably or adversely, military members' performance appraisals, assignments, or promotions. The few exceptions permitted are related to assignments: Upon the request of the military member to ameliorate a family's hardship; to facilitate joint geographic assignments of a dual-career military married couple; when otherwise required by law, such as instances of conflict of interest and nepotism; and for reasons of national security as determined on a case-by-case basis by the Assistant Secretary of Defense (Force Management and Personnel).

EFFECTIVE DATE: February 10, 1988.

FOR FURTHER INFORMATION CONTACT: Ms K. O'Beirne, Office of the Assistant Secretary of Defense (Force Management and Personnel), the Pentagon, Room 3A272, telephone (202) 697-7191.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 105

Military personnel.

Accordingly, Title 32, Chapter I, is amended to add Part 105 as follows:

PART 105—EMPLOYMENT AND VOLUNTEER WORK OF SPOUSES OF MILITARY PERSONNEL

Sec.
105.1 Purpose.
105.2 Applicability.
105.3 Definitions.
105.4 Policy.
105.5 Responsibilities.
105.6 Effective date and implementation

Authority: 10 U.S.C. 113 note.

§ 105.1 Purpose.

This part implements Pub. L. 100-180 and reissues Secretary of Defense Memorandum for Secretaries of the Military Departments, "Employment of Spouses of Members of the Armed

Forces," October 22, 1987 and Secretary of Defense Memorandum for Secretaries of the Military Departments, "Employment of Spouses of Members of the Armed Forces " December 30, 1987.

§ 105.2 Applicability.

This part applies to the Office of the Secretary of Defense (OSD), the Military Departments (including their National Guard and Reserve components), the Organization of the Joint Chiefs of Staff (OJCS), the Unified and Specified Commands, the Defense Agencies, and the DoD Field Activities (hereafter referred to as "DoD Components").

§ 105.3 Definitions.

DoD official. Any commander, supervisor, or other military or civilian official of a DoD Component.

Marital status. Married, single, divorced, widowed, or separated.

Military Services. The Army, Navy, Air Force, Marine Corps, and Coast Guard (when operating as a part of the Navy).

Spouse. The husband or wife of a military member, if such spouse is not also a military member.

§ 105.4 Policy.

(a) No DoD official shall, directly or indirectly, impede or otherwise interfere with the right of a spouse of a military member to pursue and hold a job, attend school, or perform volunteer services on or off a military installation. Moreover, no DoD official shall use the preferences or requirements of a DoD Component to influence, or attempt to influence, the employment, educational, or volunteer service decisions of a spouse. Neither such decision of a spouse, nor the marital status of the member, shall affect, favorably or adversely, the performance appraisals or assignment and promotion opportunities of the member, subject to the clarification in paragraph (b)(2) of this section.

(b) *In furtherance of this policy.* (1) In discharging their responsibilities, members of military promotion, continuation, and similar personnel selection boards are prohibited from considering the marital status of a military member, or the employment, educational, or volunteer service activities of a member's spouse.

(2) Personnel decisions, including those related to the assignments of military members, shall not be affected, favorably or adversely, by the employment, educational, or volunteer service activities of a member's spouse, or solely by reason of a member's marital status, subject to the following clarification:

(i) When necessary to ameliorate the personal hardship of a member or spouse upon the request of the member concerned, such as when a family member requires specialized medical treatment, educational provisions under DoD Instruction 1342.12 [1] and Pub. L. 94-142, or similar personal preference accommodations.

(ii) To facilitate the assignment of dual-career military married couples to the same geographic area.

(iii) When otherwise required by law, such as instances in which a prohibited conflict of interest may exist between the official duties of a military member and the employment of the member's spouse.

(iv) When the Assistant Secretary of Defense (Force Management and Personnel), with the concurrence of the General Counsel, determines, on a case-by-case basis, for reasons of national security, that marital status is an essential assignment qualification for particular military billets or positions.

(3) Performance appraisals on members of the Military Services, including officer and enlisted efficiency or fitness reports, shall not contain any information regarding the employment, educational, or volunteer service activities of the member's spouse, or reflect favorably or adversely on the member based solely on the member's martial status.

§ 105.5 Responsibilities.

(a) The Secretaries of the Military Departments and the Heads of other DoD Components shall ensure compliance with this part.

(b) The Secretaries of the Military Departments shall issue regulations, enforceable under the Uniform Code of Military Justice (UCMJ), and appropriate regulations or other guidance applicable to civilian personnel, implementing this part.

(c) The Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)) shall monitor compliance with this part.

§ 105.6 Effective date and implementation.

This part is effective February 10, 1988. The Secretaries of the Military Departments shall forward two copies of implementing documents to the Assistant Secretary of Defense (Force Management and Personnel) within 60 days.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

April 22, 1988.

[FR Doc. 88-9244 Filed 4-27-88; 8:45 am]

BILLING CODE 3810-01-M

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, Attn: Code 1052, 5801 Tabor Avenue, Philadelphia, PA 19120.

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD8-87-10]

Safety Zone—Vicinity of Old River Control Structure, Mississippi River

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending its regulations, 33 CFR 165.802 by extending the safety zone in the vicinity of the Old River Control Structure to include the area around the new Old River Auxiliary Control Structure located at mile 311.5, RDB, AHP, LMR. These structures control the distribution of water between the Mississippi River, Red River, and the Atchafalaya River. Recent completion of the new Auxiliary Control Structure necessitates extending the area of the safety zone. The extension of the lower limit will assist in protecting the structures, thus preventing interruption of flow control with serious downstream ramifications for flood control, navigation and municipal/industrial water supplies.

EFFECTIVE DATE: May 31, 1988.

FOR FURTHER INFORMATION CONTACT: LTJG Richard J. Berard, Waterways Safety Officer, Coast Guard MSO New Orleans, Tidewater Building, 1440 Canal Street, Room 909, New Orleans, LA 70112, Telephone: (504) 589-4219.

SUPPLEMENTARY INFORMATION: On 15 September 1987, the Coast Guard published a notice of proposed rule making in the **Federal Register** for these regulations (52 FR 34816). Interested persons were requested to submit comments and no comments were received.

Drafting Information

The drafters of these regulations are LTJG Patrick A. Galvin, project officer, for Coast Guard MSO New Orleans, and LCDR James J. Vallone, project attorney, Eighth Coast Guard District Legal Office.

Discussion of Comments

There were no comments received on this proposal.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The only affect of this regulation is to establish an area of controlled access in the vicinity of the Old River Control Structure and the new Old River Auxiliary Control Structure. Limited access in this area will not impede normal navigation.

List of Subjects in 33 CFR Part 165

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

Final Regulations

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 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

2. Section 165.802 is revised to read as follows:

§ 165.802 Lower Mississippi River vicinity of Old River Control Structure—Safety Zone.

(a) The area enclosed by the following boundary is a safety zone—from the Black Hawk Point Light, mile 316.1 AHP LMR to a point opposite Ft. Adams Light, mile 311.5 AHP along the low water reference plane above the right descending bank; thence to the levee on a line perpendicular to the channel centerline; thence along the levee to the upstream end of the Old River Overbank structure; thence along a line to the Black Hawk Point Light.

(b) Any vessel desiring to enter this safety zone must first obtain permission from the Captain of the Port, New Orleans. The operator of the Corps of Engineers' picket boat on scene is delegated the authority to permit entry into this safety zone.

Dated: April 22, 1988.

J.D. Sipes,

Captain, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 88–9423 Filed 4–27–88; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 7F3509/R954; FRL–3371–6]

Pesticide Tolerances for Paraquat

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide paraquat in or on various raw agricultural commodities (RACs). ICI Americas, Inc., requested the establishment of these maximum permissible levels for residues of the herbicide.

EFFECTIVE DATE: April 28, 1988.

ADDRESS: Written objections, identified by the document control number, [PP 7F3509/R954], may be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, Room 3708, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:
By mail: Robert J. Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460
Office location and telephone number: Room 245, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557–1800.

SUPPLEMENTARY INFORMATION: EPA isssued a proposed rule, published in the **Federal Register** of April 4, 1988 (53 FR 10895), in which it was announced that ICI Americas, Inc., Agricultural Chemical Division, Concord Pike and New Murphy Rd., Wilmington, DE 19897, had submitted a pesticide petition (PP 7F3509) proposing to amend CFR 180.205 by establishing tolerances to permit residues of the herebicide paraquat (1,1'-dimethyl-4-4'-bipyridinium-ion) in or on the RACs peanuts at 0.05 part per million (ppm), peanut hulls at 0.2 ppm, peanut vines at 0.5 ppm, and peanut hay at 0.5 ppm. The petition had been subsequently amended to establish tolerances for residues of paraquat in or on the RACs peanuts of 0.05 ppm; peanut hulls at 0.2 ppm; peanut vines at 0.5 pm; peanut hay at 0.5 ppm; kidney of cattle, goats hogs, horses, and sheep at 0.3 ppm and to increase the existing tolerances for meat, fat, and meat byproducts (except kidney) of cattle, goats, hogs, horses, and sheep from 0.1 to 0.5 ppm.

There were no comments or requests for referral to an advisory committee received in response to the proposed rules.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by ground legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 20, 1988.

Douglas D. Campt,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. In § 180.205(a), by adding and alphabetically inserting entries for the raw agricultural commodities peanuts, peanut hay, peanut hulls, and peanut vines and kidney of cattle, goats, hogs,

horses, and sheep and by revising the entries for meat, fat, and meat byproducts (except kidney) of cattle, goats, hogs, horses, and sheep, as follows:

§ 180.205 Paraquat; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Cattle, fat	0.05
Cattle, kidney	.3
Cattle, meat	.05
Cattle, mbyp (except kidney)	.05
* * * * *	
Goats, fat	.05
Goats, kidney	.3
Goats, meat	.05
Goats, mbyp (except kidney)	.05
* * * * *	
Hogs, fat	.05
Hogs, kidney	.3
Hogs, meat	.05
Hogs, mbyp (except kidney)	.05
* * * * *	
Horses, fat	.05
Horses, kidney	.3
Horses, meat	.05
Horses, mbyp (except kidney)	.05
* * * * *	
Peanuts	.05
Peanut, hay	.5
Peanut, hulls	.2
Peanut, vines	.5
* * * * *	
Sheep, fat	.05
Sheep, kidney	.3
Sheep, meat	.05
Sheep, mbyp (except kidney)	.05
* * * * *	

[FR Doc. 88-9403 Filed 4-27-88; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 61 and 62

National Flood Insurance Program; Assistance to Private Sector Property Insurers

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This final rule amends the National Flood Insurance Program (NFIP) regulations for the "Write-Your-Own" (WYO) Program under which private sector insurers may issue and service policies of flood insurance backed by the Government. The amendments involve the investing of income and details of cash management; reimbursement of state or municipal tax; damages arising outside the scope of the Arrangement; revision of the commission allowance provisions; responsibility for including mortgagees in claim payments; the right of a WYO Company to reject flood insurance applications which could then be referred to the NFIP Servicing Agent (and the waiting period rule for the effective date of coverage in these cases); and various kinds of audits: audits for cause, triennial financial audits and triennial reviews of claims operations and of underwriting/policy administration operations.

EFFECTIVE DATE: October 1, 1988.

FOR FURTHER INFORMATION CONTACT: Charles M. Plaxico, Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street, SW., Washington, DC 20472; telephone number (202) 646-3422.

SUPPLEMENTARY INFORMATION: On January 7, 1988, FEMA published for comment in the **Federal Register** (Vol. 53, Page 419) a proposed rule to amend the National Flood Insurance Program (NFIP) regulations dealing with the underwriting, claims adjustment, and financial control operational procedures established by the Federal Insurance Administrator (the Administrator) in connection with the "Write-Your-Own" (WYO) Program authorized pursuant to Subpart C, Part 62 of the NFIP regulations and section 1310 of the National Flood Insurance Act of 1968, as amended (Pub. L. 90-448, 42 U.S.C. 4001, *et seq.*).

Under the WYO Program, the Standard Flood Insurance Policy (the form and substance of which is approved by the Administrator) may be issued by insurers signatory to Financial Assistance/Subsidy Arrangements (the Arrangement) in their own names. Insurers then are responsible for all aspects of service, including policy issuance to new policyholders and to policyholders insured by them under other lines of property insurance; endorsement and renewal of policies; and the adjustment of claims brought under the policies. The insurers retain a specified amount of the premium for their expenses, including the commissions of agents. Under the Arrangement (Appendix A to Part 62 of the NFIP regulations), the Government provides such additional funds as may be required, over and above the net premium income, for the payment of claims.

Most of the comments received on the proposed rule were from private insurance agencies and/or independent insurance agents who sell flood insurance policies under the WYO Program. Comments were also received from WYO Companies, a WYO vendor, and from Members of Congress forwarding correspondence from—or making inquiries on behalf of—WYO Companies, insurance agencies, and/or independent insurance agents.

The majority of the comments related to the proposal to revise the commission allowance in the Arrangement from 15% to a base of 13% and also, as an incentive to increase the NFIP policy-in-force base, to provide for a commission allowance for each WYO Company in addition to the proposed 13%, based on the amount of increase of its policies in force. The comments opposing the revision in the commission allowance primarily concern the difficulty and expense of marketing flood insurance. Several of the respondents suggested that a reduction in the commission rate will cause agents to lose interest in the WYO Program which will thwart the efforts to increase the policies-in-force base. Still others, in objecting to the proposed reduction, commented that the proposal to reduce the commission allowance for policies issued by the NFIP through its Servicing Agent (52 FR 18929, dated May 20, 1987) has never been implemented and that it is unfair and discriminatory to have one commission allowance percentage for policies issued through the NFIP's Servicing Agent and another, lower percentage for policies issued under the WYO Program. FEMA recognizes that the flood insurance line is a unique form of insurance with procedures and requirements that are not found with other types of insurance. Bearing this in mind and after giving careful consideration to the substantive concerns expressed by the respondents, FEMA has determined that the base commission allowance in the Arrangement should be set at 14% rather than the 13% originally proposed. Further, FEMA is continually working with representatives of the insurance agents and of the WYO Companies to make flood insurance easier and less expensive to sell. For example, FEMA is currently working with both groups to develop several simplified flood insurance products. Also, the final rule will provide that the WYO Companies may withhold 15% during the Arrangement Year, with adjustments up or down being made at year's end (see below for a more detailed discussion). With respect to the commission allowance provisions related to policies issued by the NFIP through its Servicing Agent, FEMA is proceeding to issue a final rule which will also revise the flood insurance commission rate paid to property insurance agents and brokers writing policies of flood insurance

through the NFIP Servicing Agent. The direct bill system and the WYO Program system are both designed to encourage new business. Under both systems, if not much new business is produced, the amount of commission will be less than it is currently. Conversely, if a lot of new business is produced, the WYO Companies will get more commission allowance, and the desirable goal of a better spreading of the risk by increasing the policy-in-force base will be achieved. This better spreading of the risk will produce savings to the federal government in another way. How much they pass on to their agents and how they choose to do it are matters to be determined by each WYO Company. If the WYO Companies do pass along the bonus to their agents, the average commission paid under the WYO Program versus the direct business should be comparable. FEMA will be monitoring these two systems over the next couple of years to determine how well they are working and to determine if any changes to the systems are needed in the future.

The additional commission allowance (one-tenth of a percent for each 1% increase in the NFIP policies-in-force for the WYO Company during each Arrangement Year, subject to a cap of 3% for the additional commission allowance), also generated a number of comments. One respondent suggested that clarification is needed as to the first Arrangement Year for which the percentage increase for policy growth would apply while another respondent suggested that clarification is needed as to when the distribution of the additional percentage would be made following the end of the Arrangement Year. One respondent expressed the belief that allowing a WYO Company which had no policies in force on September 30 of the prior Arrangement Year a 15% commission allowance will give new companies entering the Program a competitive advantage because they could offer a higher agent commission than a long-term participant might be able to afford. Concern was expressed by one respondent that calculating the additional commission allowance based upon the rate of policy growth "during each Arrangement Year" is not fair to those WYO Companies which encourage their producers to write three-year policies, noting that such policies are in the best interest of the consumer. Also of concern to two respondents is the belief that the method proposed for calculating the additional commission allowance favors the small companies which have a smaller base of policies-in-force on which to build. One respondent, writing as a WYO vendor, expressed concern that the programming changes, accounting procedures and additional quality controls required to implement and monitor the application of a different expense allowance for each WYO Company that a vendor services will be extensive and commented that such additional labor costs will result in price increases to the WYO Companies it supports. This respondent further expressed concern that notification of the new Arrangement rates for individual WYO Companies would occur at least two months after a new Arrangement Year has begun, necessitating the reprocessing of two to three months' data and adjusting of financial reports and commissions. Another respondent likewise expressed the belief that a change of the magnitude proposed will require reprogramming of the WYO Companies' commission system, thereby placing an unjustified burden on the Companies while still another respondent commented that cost incentives to companies who increase policy counts are difficult to track, add to costs and are easy to manipulate. FEMA has carefully considered the concerns expressed by the respondents but is not persuaded that the proposal to provide an additional commission allowance for policy growth should not be implemented. FEMA agrees that the final rule should be clear as to the first Arrangement Year for which the percentage increase for policy growth will apply and as to when the distribution of the additional percentage will be made. Further, FEMA does not wish to penalize WYO Companies by requiring them to wait until the end of the Arrangement Year before receiving any additional commission allowance. Therefore, the final rule is revised to provide that WYO Companies may withhold 15% of written premium during the Arrangement Year with an adjustment up or down being made at year end. The year's experience for policy growth will begin with the Arrangement Year starting October 1, 1988. Thus, for Fiscal Year 1989 which begins October 1, 1988, WYO Companies will be able to withhold 15% during the Arrangement Year beginning October 1, 1988, with an adjustment up or down being made at year end based on the number of policies in force on September 30, 1989, as compared to the number of policies in force on September 30, 1988. It is contemplated that payment of any additional commission allowance will be made within three months of the end of the Arrangement Year as suggested by one respondent. FEMA continues to believe that it is correct policy to allow the 15% commission allowance for WYO Companies that did not have any policies in force at the end of the prior Arrangement Year. It must be emphasized that a major expectation of the WYO Program is an increase in the policies-in-force base. If those WYO Companies which had policies in force at the end of the prior Arrangement Year do, in fact, increase their policy count, they can retain more of the written premium for the commission allowance than they currently do. Regarding the concern expressed by the respondent for the WYO Company which encourages the writing of three-year policies, FEMA does not agree that calculating the additional commission allowance based on the rate of policy growth for each Arrangement Year will adversely affect those Companies which are writing three-year policies. It is true that a three-year policy will produce a smaller commission than three one-year policies; however, the same can be said for the procedure currently in effect. Moreover, writing three-year policies can be an advantage since it will ensure a stable policy count for two additional years whereas one-year policies can go off the books and cause the Company's policy count to go down. While basing the additional commission allowance on the percentage of growth in the policy count over the prior year's policies-in-force count may favor the smaller companies, it must be recognized that, because of economies of scale, the average expense for large companies is not as great as for small companies. Bearing this in mind, FEMA believes that it is correct policy to retain the bonus system as originally proposed. Regarding the concern expressed by the WYO vendor related to the costs associated with implementing and monitoring the application of a different expense allowance for each WYO Company it supports, nothing in this final rule changes the right of WYO Companies to compensate their agents at whatever rate and on whatever basis they determine to be appropriate. Although FEMA would encourage WYO Companies to have some means of rewarding agents that produce a lot of new business, it is the prerogative of each WYO Company to decide the rate of commission it will pay its agents during the Arrangement Year and whether it will give an end of the year bonus to its agents. If a WYO vendor believes it would be able to process business for its client WYO Companies more efficiently if they all pay the same commission allowance, that is a matter

for negotiation between the vendor and its client WYO Companies. The comment regarding the need for reprocessing two or three months' data and adjusting financial reports and commissions seems to be based on the misunderstanding that the policy-in-force growth in one Arrangement Year will determine the commission allowance for the next Arrangement Year. This is not true, as explained above. Regarding the comment that cost incentives to companies who increase policy counts are difficult to track, add to costs and are easy to manipulate, the NFIP will be undertaking to track that information based on data already being submitted by the WYO Companies and no additional tracking will be required of the Companies. FEMA does not agree with the statement that it will be "easy to manipulate" figures; however, if experience shows this to be a problem, corrective action will be taken.

The proposed revision of Articles II.E, IV.A, and VII.A of the Arrangement to eliminate the provision allowing WYO Companies to invest excess funds did not generate any comments and is in the final rule as originally proposed.

The proposed revision of Article III.B of the Arrangement to eliminate the option for a WYO Company to pay 3% of its written premium on the policies covered by the Arrangement for the right to receive a dollar for dollar reimbursement for actual state or municipal taxes paid on the policies covered by the Arrangement also did not generate any comments and likewise is in the final rule as originally proposed.

Regarding the services of rating organizations, two respondents suggested substitute language for Article III.B of the Arrangement to remove any reference to the Administrator. One respondent commented that "the proposed language portends much government control" and "may deter some potential WYO Companies from participation." It is the position of FEMA that the work to be performed by such a national rating organization would be for the benefit of the entire NFIP, which the Administrator has been charged with the responsibility for overseeing. This provision has been revised in the final rule to address the concerns of the respondents while still ensuring the ability of the Administrator to fulfill his oversight responsibilities.

The proposed revision of Article VII.B of the Arrangement to remove cash management details and replace them with a reference to the WYO Accounting Procedures Manual generated no comments and is incorporated into the final rule as originally proposed.

The proposal to revise Article III.D to clarify reimbursement of a WYO Company for awards or judgments for damages arising outside the scope of the claims processing standards and guides of the Arrangement or other provisions of the Arrangement generated comment from one respondent who questioned the necessity of including language dealing with the internal FIA operations in the Arrangement. FEMA agrees that his comments are valid and section (D)(2) is revised in the final rule to remove the language in question.

The proposal to revise Article IX of the Arrangement to clarify the option of WYO Companies not to list the names of mortgagees on policies they issue, especially in the case of condominium coverage, generated comment from one WYO Company which expressed the opinion that "* * * since each Company is accustomed to this situation in the non-flood insurance property claims settlement procedures, this is both unnecessary and contrary to the spirit and intent of the Arrangement." FEMA's intent was merely to make it clear that WYO Companies can follow this procedure. In clarifying this option for WYO Companies, however, FEMA believes it imperative to also clarify the consequences that might result from not listing the names of mortgagees on such policies. Therefore, this provision is incorporated into the final rule as originally proposed.

Regarding the right of a WYO Company under the WYO Program to reject flood insurance applications, one respondent commented that the language contained in the supplemental information to the proposed rule "implies that rejected new and renewal business *must* be referred to the NFIP" when, in fact, an application may be rejected for "(1) failure to submit needed underwriting data, and (2) the WYO Company's failure to renew an agency contract." FEMA did not mean to suggest that the WYO Company had to refer a rejected application to the NFIP Servicing Agent and the language in the final rule is amended to make it clear that this provision applies where WYO Companies choose the option of referring the business to the NFIP Servicing Agent. The proposed rule did not specify the procedure to be taken prior to referral because FEMA believes it is important for WYO Companies to have flexibility to establish procedures for such referrals. In accordance with the provision in § 61.11(f) of the NFIP regulations that allows the effective date for the policy to be calculated from the date of receipt by the agent acting in the capacity of an agent of a WYO Company, this same procedure will be followed in the case of an application referred by a WYO Company to the NFIP Servicing Agent. Thus, as set forth in the proposed rule, the NFIP Servicing Agent will calculate the effective date of the policy based upon the date of receipt by the agent of the premium payment and the properly completed application.

The proposed revisions in Part 2—Statistical Plan Reconciliation Procedures did not generate any comments and are incorporated into the final rule as originally proposed.

The proposal to revise Part 4—Claims Operation Review Procedures to require a review of 5% of the claim files opened during the period covered by the Review generated comment from one respondent who expressed the belief that this proposed change may result in an "incredibly heavy load" for the FIA examiner in the event of considerable losses over a three-year period in a highly exposed state such as Florida, Louisiana or Texas. This respondent suggested instead that reference be made to 5% of the claim files opened, subject to a 50 files per year limit, although no statistical argument was presented in support of this position. FEMA recognizes that the concern about FEMA staff resources is not without merit. Nevertheless, FEMA believes it is imperative to review more files for those WYO Companies that adjust more claims. FEMA currently reviews 50 files when conducting a Claims Operation Review of a WYO Company and believes that at least this number of files should be reviewed regardless of how few claims may be adjusted by the WYO Company. Therefore, the provision in Part 4—Claims Operation Review Procedures requiring review of up to 5% of the claim files opened during the period covered by the Review is incorporated into the final rule, with a provision requiring that not less than 50 files be reviewed.

The proposal to provide in the WYO Financial Control Plan for triennial financial audits of WYO Companies generated comments from five respondents, all of whom expressed concern about the costs that might be involved. One respondent expressed the belief that requiring WYO Companies to select and fund independent Certified Public Accounting firms to conduct the triennial audits with the resultant additional costs will impose further pressure on Program profits and will be disproportionately expensive to the smaller companies. One respondent thought that the requirement for the

independent financial audit is being added to enable FEMA to eliminate its triennial audits, thus reducing the manhours to perform FEMA's responsibilities while two other respondents disagreed with the statement in the proposed rule that the costs associated with the financial audits are part "* * * of the normal administrative costs of operating the WYO Program and as such are included in the WYO expense allowance." These respondents suggested respectively that FEMA (1) bear the expense or increase the expense allowance for WYO Companies to cover the additional expenses, (2) delete the requirement for the independent financial audit from the final rule or (3) provide a special expense allocation to WYO Companies to cover the costs of the independent financial audits. FEMA has carefully considered the comments made by these five respondents but does not agree with their position. As explained in the supplemental information to the proposed rule, the triennial financial audits are in addition to the triennial operation reviews for claims and for underwriting/policy administration. The new requirement for the independent financial audit does not mean that FEMA will eliminate any of its current audit or review activity. FEMA continues to view the costs associated with the triennial audits to be part of the normal administrative costs of operating the WYO Program and as such included in the WYO expense allowance. The triennial financial audits are similar to independent financial audits of insurance companies now being conducted for various reasons. These audits, which are often required by State Insurance Commissioners, are conducted at the insurance company's expense and it is FEMA's intention that the financial audits required by this rule be an addendum to these other financial audits, wherever possible, thereby limiting their cost. In addition, WYO Companies utilizing the services of a vendor to handle the business being audited may jointly contract for such audits, thereby limiting costs. Therefore, for the reasons discussed above, the provision covering the triennial audits is incorporated into the final rule as originally proposed. Also, this final rule makes a few changes to the list of reasons justifying an audit for cause and clarifies how the decision to conduct an audit for cause is to be made.

Several comments were received which were editorial in nature, some of which are incorporated into the final rule and some are not.

FEMA has determined, based upon an Environmental Assessment, that this rule will not have significant impact upon the quality of the human environment. As a result, an Environmental Impact Statement will not be prepared. A finding of no significant impact is included in the formal docket file and is available for public inspection and copying at the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

This rule will not have significant economic impact on a substantial number of small entities and therefore has not undergone regulatory flexibility analysis.

This rule is not a "major rule" as defined in Executive Order 12291, dated February 27, 1981, and, hence, no regulatory analysis has been prepared.

FEMA has determined that this rule does not contain a collection of information requirement as described in section 3504(h) of the Paperwork Reduction Act.

List of Subjects in 44 CFR Parts 61 and 62

Flood insurance and claims.

Accordingly, 44 CFR Chapter I, Subchapter B, is amended as follows:

PART 61—INSURANCE COVERAGE AND RATES

1. The authority citation for Part 61 continues to read as follows:

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

§ 61.11 [Amended]

2. Section 61.11 is amended by adding to the end of the first sentence of paragraph (e) the following: "* * *, except where a WYO Company receives an application and premium payment from one of its agents and elects to refer the business to the NFIP Servicing Agent because the WYO Company does not wish to write the business, in which case any applicable waiting period under this section shall be calculated in accordance with the first sentence of paragraph (f) of this section."

PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

3. The authority citation for Part 62 is revised to read as set forth below and the authority citations following all the sections in Part 62 are removed.

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

§ 62.23 [Amended]

4. Section 62.23 is amended as follows:

a. By removing in paragraph (c) the word "will" and adding in its place the words "is authorized to".

b. By removing in paragraph (h)(5) the words "a producer, the producer" and adding in their place the words "an agent or a producer, the agent or producer".

c. By revising paragraph (j)(4) to read as follows:

* * * * *

(j) * * *

(4) Participate in WYO Company/FIA Operation Reviews. The FIA Claims Director or designee and the FIA Underwriting Director or designee will conduct a review of the WYO Company flood insurance activities at least once every three (3) years. A report of the Operation Review will be filed with the Standards Committee.

* * * * *

d. In paragraph (j)(5) by adding after the phrase "WYO Statistical Plan" both times it appears the phrase "and the WYO Accounting Procedures Manual", by removing in the last sentence the word "total" and adding in its place the word "totals", and by adding in the last sentence after the word "Company" and before the word "reports" the word "reconciliation".

e. In paragraph (j) (7) and (8), by removing the word "Cooperation" and adding in its place the word "Cooperate".

Appendix A to Part 62—[Amended]

5. Appendix A of Part 62, *Financial Assistance/Subsidy Arrangement*, is amended as follows:

a. Article II—UNDERTAKINGS OF THE COMPANY is amended by removing in section E all sentences after the first sentence and adding in their place the following sentence: "All funds not required to meet current expenditures shall be remitted to the United States Treasury, in accordance with the provisions of the WYO Accounting Procedures Manual."

b. Article III—LOSS COSTS, EXPENSES, EXPENSE REIMBURSEMENT, AND PREMIUM REFUNDS is amended by adding "marketing," in the first sentence of the first paragraph of Section B after the word "Company's" and before the word "operating".

c. Article III—LOSS COSTS, EXPENSES, EXPENSE REIMBURSEMENT, AND PREMIUM REFUNDS is amended by removing the second and third paragraphs of Section

B and adding in their place the following three paragraphs:

The Company shall be entitled to 14.0% of the Company's written premium on the policies covered by this Arrangement as the basic commission allowance to meet commissions and/or salaries of their insurance agents, brokers, or other entities producing qualified flood insurance applications and other related expenses. Additionally, the Company shall be entitled to 0.1% of the Company's written premium on the policies covered by this Arrangement for each 1% growth in the Company's policies in force on September 30 of this Arrangement Year, reduced by 80% of the number of policies scheduled for transfer to the Company during this Arrangement Year pursuant to the Company's request under the NFIP Rollover Procedures, over the policies in force on September 30 of the prior Arrangement Year; the additional commission allowance calculated under this provision is limited to a maximum of 3%. The Company may withhold 15% of the Company's written premium during this Arrangement Year with an adjustment up or down, depending upon policy growth, being made at the end of this Arrangement Year.

In the case where the Company had no policies in force on September 30 of the prior Arrangement Year, the Company shall be entitled to withhold 15% of the Company's written premium on the policies covered by this Arrangement as the commission allowance, with no adjustment at the end of this Arrangement Year.

Nothing in Article III, Section B, can be used as a means of increasing a Company's commission allowance by transferring business from one company to another company within a company group or by the merger or acquisition of another company. Payments of any additional commission allowance or refund of any excess commission allowance will be in accordance with the WYO Accounting Procedures Manual.

The Company, with the consent of the Administrator as to terms and costs, shall be entitled to utilize the services of a national rating organization, licensed under state law, to assist the FIA in undertaking and carrying out such studies and investigations on a community or individual risk basis, and in determining more equitable and accurate estimates of flood insurance risk premium rates as authorized under the National Flood Insurance Act of 1968, as amended. The Company shall be reimbursed in accordance with the provisions of the WYO Accounting Procedures Manual for the charges or fees for such services.

d. Article III—LOSS COSTS, EXPENSES, EXPENSE REIMBURSEMENT, AND PREMIUM REFUNDS is amended in Section D by adding "1." after "D." and by removing the second paragraph and adding in its place the following:

2. Loss payments will include payments as a result of awards or judgments for damages arising under the scope of this Arrangement, policies of flood insurance issued pursuant to this Arrangement, and the claims processing standards and guides set forth at Article II, Section A, 2.0 of this Arrangement. Prompt notice of any claim for damages as to claims processing or other matters arising outside the scope of this section (D)(2) shall be sent to the Assistant Administrator of the FIA's Office of Insurance Policy Analysis and Technical Services (OIPATS), along with a copy of any material pertinent to the claim for damages arising outside of the scope of the matters set forth in this section (D)(2).

Following receipt of notice of such claim, the General Counsel (OGC), FEMA, shall review the cause and make a recommendation to FIA as to whether the claim is grounded in actions by the Company which are significantly outside the provisions of this section (D)(2). After reviewing the General Counsel's recommendation, the Administrator will make his decision and the Company will be notified, in writing, within thirty (30) days of the General Counsel's recommendation, if the decision is that any award or judgment for damages arising out of such actions will not be recognized under Article III of this Arrangement as a reimbursable loss cost, expense or expense reimbursement. In the event that the Company wishes to petition for reconsideration of the notification that it will not be reimbursed for the award or judgment made under the above circumstances, it may do so by mailing, within thirty days of the notice declining to recognize any such award or judgment as reimbursable under Article III, a written petition to the Chairman of the WYO Standards Committee established under the Financial Control Plan. The WYO Standards Committee will, then, consider the petition at its next regularly scheduled meeting or at a special meeting called for that purpose by the Chairman and issue a written recommendation to the Administrator, within thirty days of the meeting. The Administrator's final determination will be made, in writing, to the Company within thirty days of the recommendation made by the WYO Standards Committee.

e. In Article IV—UNDERTAKINGS OF THE GOVERNMENT, section A is amended by revising the third sentence to read as follows: "Request for funds shall be made only when net premium income has been depleted."

f. In Article V—COMMENCEMENT AND TERMINATION, paragraph "a" of section C is amended by adding after the word "Program" and before the semi-colon the words ", including certain data, as determined by FIA, in a standard format and medium".

g. In Article VII—CASH MANAGEMENT AND ACCOUNTING, section A is amended by removing the words "and interest income".

h. Article VII—CASH MANAGEMENT AND ACCOUNTING is amended by revising section B to read as follows:

B. The Company shall remit all funds not required to meet current expenditures to the United States Treasury, in accordance with the provisions of the WYO Accounting Procedures Manual.

i. Article IX—ERRORS AND OMISSIONS is amended by adding a second paragraph to read as follows:

* * * * *

However, in the event that the Company has made a claim payment to an insured without including a mortgagee (or trustee) of which the Company had actual notice prior to making payment, and subsequently determines that the mortgagee (or trustee) is also entitled to any part of said claim payment, any additional payment shall not be paid by the Company from any portion of the premium and any funds derived from any Federal Letter of Credit deposited in the bank account described in Article II, section E. In addition, the Company agrees to hold the Federal Government harmless against any claim asserted against the Federal Government by any such mortgagee (or trustee), as described in the preceding sentence, by reason of any claim payment made to any insured under the circumstances described above.

Appendix B of Part 62—[Amended]

6. Appendix B of Part 62, *A Plan to Maintain Financial Control for Business Written Under the Write-Your-Own Program*, is amended as follows:

a. The introductory section at the beginning of Appendix B is amended by removing in numbered paragraph 4 the words "actual files (up to fifty [50])" and adding in their place the words "specific files".

b. The introductory section at the beginning of Appendix B is amended by adding, following numbered paragraph 4, a new numbered paragraph 5 to read as set forth below and by renumbering

existing numbered paragraphs 5 through 9 as numbered paragraphs 6 through 10, respectively:

5. Have a triennial audit of the flood insurance financial statements conducted by an independent accounting firm at the Company's expense to ensure that the financial data reported to FIA accurately represents the flood insurance activities of the Company.

c. PART 2—STATISTICAL PLAN RECONCILIATION PROCEDURES is amended as follows:

(1) By revising the second and third sentences of the *Statistical Plan Reconciliation Objectives* section to read as follows: "The reliance on computer processing to perform the review of transaction and financial data will help minimize the necessity for on-site audits of WYO Companies. Reconciliation of the statistical reports submitted will be performed by the WYO Companies and independently by the NFIP Servicing Facility.

(2) By renumbering paragraphs 2 and 3 of the *Financial Control* section to 3 and 4, respectively, and by adding a new paragraph 2 to read as follows:

* * * * *

2. WYO Companies are required to submit, on a form approved by the Administrator, a tape transmittal document with the submission of the statistical tape containing transaction detail. This will be used to validate record counts and dollar amounts.

* * * * *

(3) In renumbered paragraph 4 of the *Financial Control* section, by adding after the word "maintained" the words "whenever possible".

(4) In paragraph 4 of the *Quality Review of Submitted Data* section, by removing the last two sentences and adding in their place the following: "Critical errors include those made in required data elements. Required data elements:

(1) Identify the policyholder, the policy, the loss, and the property location;

(2) Provide information necessary to rate the policy;

(3) Provide information used in financial control;

(4) Provide information used for actuarial review of NFIP experience.

Non-critical errors are those made in data elements reported by the WYO Companies at their option."

(5) In the second paragraph of the *Timeliness of Reporting* section, by removing the words "receipt date" and adding in their place the words "the first processing cycle subsequent to the receipt".

(6) Numbered paragraph 2 of the *Monthly Reports* section is revised to read as follows:

* * * * *

2. Summary statistics will be generated for each monthly submission of transaction data. These will include:

a. Absolute numbers of transactions read and transactions rejected by transaction type.

b. Dollar amounts associated with transactions read and transactions rejected.

(7) Numbered paragraph 4 of the *Monthly Reports* section is revised to read as follows:

* * * * *

4. Control totals will be generated for tapes submitted to and processed by the NFIP. This front-end balancing procedure will include:

a. Numbers of records submitted according to the NFIP compared with numbers of records submitted according to the WYO Company transmittal document.

b. Dollar amounts submitted according to the NFIP compared with dollar amounts submitted according to the WYO Company transmittal document.

If there is any discrepancy between the NFIP reading of dollar amounts from the tape and the WYO Company tape transmittal document, then the monthly statistical tape submission will be rejected and returned to the Company. The rejected tape must be corrected and resubmitted by the next monthly submission due date.

* * * * *

(8) By revising Exhibit "A" to read as follows:

Exhibit "A".—WYO Statistical Tape Transmittal Document

Date Sent: _____ WYO Prefix Code: _____

WYO Company Name: _____

Address: _____

_____

Reel Number (S) of Enclosed Tapes: _____

_____

Density _____ LRECL _____

Blocksize _____

File Name (DSN) _____

Contact Person _____

Contact Number _____

IBU Number _____ (WYO Use Only)

BILLING CODE 6718-01-M

MONTHLY RECONCILIATION - NET WRITTEN PREMIUMS

COMPANY NAME _____ CO. NAIC NUMBER _____

MONTH/YEAR ENDING _____ DATE SUBMITTED _____

PREPARER'S NAME _____ TELEPHONE NO. _____

MONTHLY FINANCIAL REPORT		MONTHLY STATISTICAL TRANSACTION REPORT		
NET WRITTEN PREMIUMS	$_____	TRANS. CODE	RECORD COUNT	PREMIUM AMOUNT
	(INCOME STATEMENT = LINE 100)	11	_____	$ _____
		15	_____	_____
		17	_____	_____
UNPROCESSED STATISTICAL:		20	_____	_____
(+) PRIOR MONTH'S	_____			
(-) CURRENT MONTH'S	_____	23	_____	_____
OTHER-EXPLAIN:				
		26	_____	(-) _____
(+) CURRENT MONTH'S	_____			
(-) PRIOR MONTH'S	_____			
		29	_____	(-) _____
		14 AND 81	_____	(+)
TOTAL:	_____	TOTAL:	_____	_____
		(ADD 11 THROUGH 23 LESS 26 AND 29)		

COMMENTS:

MONTHLY RECONCILIATION - LOSSES

COMPANY NAME _____ CO. NAIC NUMBER _____

MONTH/YEAR _____ DATE SUBMITTED _____

		TRANS. CODE	RECORD COUNT	LOSS/PAID RECOVERIES
100 NET PAID LOSSES $ (INCOME STATEMENT LINE 115)	_____			
UNPROCESSED STATISTICAL:		31	_____	$_____
140 (+)PRIOR MONTH'S	_____	34	_____	_____
		37	_____	_____
150 (-)CURRENT MONTH	_____	40	_____	_____
160 SALVAGE NOT TO BE REPORTED BY TRANSACTION (EXPLAIN)	_____	43	_____	_____
170 OTHER-EXPLAIN:	_____	46 AND 61	_____	
		49	_____	_____
		64	_____	_____
		84 AND 87	_____	
		52 RECOVERY	_____	_____
		SALVAGE		_____
		SUBROGATION		_____
		67 RECOVERY	_____	_____
		SALVAGE		_____
		SUBROGATION		_____
TOTAL:	_____	TOTAL:		_____
(SUM OF LINES 100, 140, 160, AND 170 LESS 150)		(ADD 31, 34, 40 THROUGH 64 LESS 52 AND 67)		

COMMENTS:

BILLING CODE 6718-01-C

MONTHLY RECONCILIATION - SPECIAL ALLOCATED LAE

COMPANY NAME _____ CO. NAIC NUMBER _____

MONTH/YEAR ENDING _____ DATE SUBMITTED _____

MONTHLY FINANCIAL REPORT		MONTHLY STATISTICAL TRANSACTION REPORT		
SPECIAL ALLOCATED LOSS ADJUSTMENT EXPENSES		Trans. Code	Record Count	Amounts
	(OTHER LOSS AND LAE CALC. - LINE 655)	71	_____	$_____
		74	_____	_____
Unprocessed Statistical:				
(+) Prior Month	_____			
(-) Current Month	_____			
Other-Explain:				
(1)	_____			
(2)	_____			
TOTAL:	_____	TOTAL:	_____	_____

COMMENTS:

d. PART 3—UNDERWRITING/POLICY ADMINISTRATION OPERATION REVIEW PROCEDURES is amended as follows:

(1) By removing in the second sentence of paragraph number 2 of the *Notice* section the words "Up to 50 policy" and adding in their place the word "Policy".

(2) By adding to the end of paragraph number 2 of the *Notice* section the following: "The number of policy files reviewed shall be determined by the following schedule.

Policies in force	Policy files reviewed
Under 25,000	50
25,000-74,999	75
75,000-99,999	100
100,000 and over	125"

(3) By adding in paragraph 1, *WYO Company Summary Report*, of the *Underwriting/Policy Administration Operation Review Outline* section after the word "underwriter" and before the word "prior" the words ", if requested,".

(4) By removing in paragraph 2, *Administrative Review*, of the *Underwriting/Policy Administration Operation Review Outline* section the words "See Exhibit 'B'." and adding in their place the following: "Exhibit B, the use of which is optional, provides a sample format for this review."

(5) by removing in paragraph 4 *File Review*, the words "would be compiled" and adding in their place the words, ", the use of which is optional, provides a sample format".

(6) By removing in the NOTE appearing just before EXHIBIT "A"—WYO COMPANY *Summary Report* the words "of 20% or higher" and adding in their place the words "equal to or greater than, depending on the nature of the files selected for review, 10% to 20%".

(7) By adding in item number (1) of the NOTE appearing just before EXHIBIT "A"—WYO COMPANY *Summary Report* after "zone)" and before the period the words ", or an endorsement."

(8) By adding after item number (2) at the end of the NOTE appearing just before EXHIBIT "A"—WYO COMPANY *Summary Report* items (3) through (6) to read as follows:

(3) The failure to obtain the information necessary to properly identify and underwrite a risk.

(4) The issuance of a policy with an incorrect policy term.

(5) Any error which impacts the correct return premium on a cancellation or nullification.

(6) The processing of a cancellation or nullification for an invalid reason.

(9) By revising EXHIBIT "C"—SPECIFIC RISK REVIEW CHECKLIST to read as follows:

EXHIBIT "C"—SPECIFIC RISK REVIEW

Date:_____
Occupancy:
( ) Single family
( ) 2-4 family
( ) Other residential
( ) Non residential
Policy No._____
Amount of insurance:
Building:.....
Contents.....
Zone.....
Number of floors:_____
Condominium:
( ) Yes ( ) No
Basement:
( ) Yes ( ) No.....

EXHIBIT "C"—SPECIFIC RISK REVIEW—Continued

Elevated Building:
( ) Yes ( ) No.....
Complete when appropriate:
Elevation difference.....
Base flood elevation.....
Lowest floor elevation.....
Grade elevation.....
Obstruction below elevated building:.....
( ) Yes ( ) No.....

	Yes	No	Comment if checked "No"
Application:			
Properly completed?.	.....	.....	.....
Met eligibility—location requirements?.	.....	.....	.....
Policy:			
Properly issued?.....	.....	.....	.....
Required premium received? (If coverage was reduced to the amount that could be purchased with the premium submitted, check yes.).	.....	.....	.....
Are coverage limits within NFIP statutory allowances?	.....	.....	.....
Waiting period observed?	.....	.....	.....
Endorsements, renewals, cancellations:			
Properly issued?	.....	.....	.....
Required premium received or returned?	.....	.....	.....
Waiting period observed?	.....	.....	.....
Additional documentation:			
Is elevation certificate information valid and complete?	.....	.....	.....
If specifically rated, has company obtained the required information?	.....	.....	.....
File satisfactory for			
Service within guidelines?	.....	.....	.....
Recertification?	.....	.....	.....

Comments—FIA Examiner

Comments—WYO Company Underwriter

Resolution

e. PART 4—CLAIMS OPERATION REVIEW PROCEDURES is amended as follows:

(1) By removing in the second sentence of numbered paragraph 2 of the *Claims Operation Review Objectives* the words "50 policy files" and adding in their place the words "5%, but not less than 50, of the claim files opened during the period covered by the Review."

(2) By adding in EXHIBIT "B"—ADMINISTRATIVE REVIEW CHECKLIST just before 1. *Investigation and Adjustments* the following:

"Policy #
Insured's name:
State:
Date of loss:
Date paid:
Date reported:
Amt. of loss: $
Bldg. $
Contents $
Adjusting firm:
Examiner's name:
Comments:

(3) By adding at the end of section "f" of EXHIBIT "B"—ADMINISTRATIVE REVIEW CHECKLIST item 9 as follows:

(9) Is the statistical reporting correction file being properly managed?..... [ ] [ ] [ ]

f. By revising PART 6—FINANCIAL AUDITS AND STATE INSURANCE DEPARTMENT EXAMINATIONS to read as follows:

Part 6—Financial Audits, Audits for Cause, and State Insurance Department Audits

A. Triennial Financial Audits

I. Objectives of WYO Triennial Financial Audit—The triennial financial audit is intended to provide the Federal Emergency Management Agency with independent assessment of the quality of financial controls over activities relating to the Company's participation in the National Flood Insurance Program as well as the integrity of the financial data reported to FEMA. Participating WYO companies are responsible for selecting and funding independent Certified Public Accounting firms to conduct the triennial audits. Such costs are considered part of the normal administrative cost of operating the WYO program and as such are included in the WYO expense allowance.

It is also intended that the triennial audit will reduce if not eliminate the need for FEMA auditors or their designees to conduct on-site visits to WYO companies in their review of financial activity. However, the requirement may still exist for such visits to occur as determined by the auditors. In addition, nothing in this section should be construed as limiting

the ability of the General Accounting Office to review the activities of the WYO Program.

The objective of the triennial audit is to ensure that Financial data reported to FEMA for the Arrangement Year (Government Fiscal Year) is fairly and accurately presented in order to determine that:

A. Policy and claim related financial data as reported to the NFIP are proper and adequately supported by underlying documentation.

B. Reported cash amounts are properly reconciled to the bank account balance.

C. Reported accounts receivable, premium suspense and accounts payable balances are properly stated.

D. Cash management is in accordance with the requirements of the WYO Accounting Procedures Manual and consistent with the Company's procedures as updated to FEMA.

II. Internal Controls and Suggested Procedures. A. The nature, timing and extent of audit tests to be applied are to be determined by the independent Certified Public Accounting firm based on its study and evaluation of the WYO Company's accounting procedures and system of internal control. Adequate evaluation requires knowledge and understanding of the WYO accounting and financial reporting procedures prescribed by the Arrangement and a reasonable degree of assurance that they are in use and are operating effectively (e.g., annual WYO Company self-audit).

B. The audit tests described below are suggested tests and are to be modified as considered necessary by the independent Certified Public Accounting firm, based on its study and evaluation of WYO Company's accounting procedures, system of internal control and results of company WYO self-audits. Based on such study and evaluation, the independent Certified Public Accounting firm may consider additional steps to be necessary, may consider certain of the audit tests described below to be unnecessary, or may consider additions to or reductions in the extent of such audit tests to be appropriate. Each elimination and/or reduction shall be described in the independent Certified Public Accounting firm's report. See Part IV below.

III. Audit Tests. A. Tie total written premium from policy master file to the monthly financial reports.

1. Trace reconciling items to the subsequent month's financial report; and

2. Obtain evidence that items included with the second monthly financial report dated on or before the date of the reconciliation were included as reconciling items, if appropriate. Investigate, as required, reconciling items not clearing with the second monthly financial report.

B. Select a representative sample of policies which were in-force during all or part of the Arrangement Year under audit for detail testing.

1. Confirm policy detail with policyholder (e.g., policy number, effective date, policy term, premium, insured property address, deductible amounts).

2. Determine that policy detail from policy file agrees with statistical data from the master file submitted to the NFIP.

3. Select a sample of policy cancellations and endorsements from throughout the fiscal year and determine the propriety of the financial reporting associated with such transactions (e.g., return premium, additional premium and appropriate application of the expense allowance).

C. Tie total paid losses and outstanding loss reserves, allocated and special allocated adjustment expenses, including outstanding reserves, from policy master file to monthly financial reports.

1. Trace reconciling items to the subsequent month's financial reports, and;

2. Obtain evidence that items included with the second statement dated on or before the date of the reconciliation are included as reconciling items, if appropriate. Investigate, as required, reconciling items not clearing with the second monthly financial report.

D. Select a representative sample of claims activity during the Arrangement Year for detail testing.

1. Confirm policy number, claim number, loss payment, loss date, and date-of-loss payment with policyholder.

2. Determine whether special allocated LAE payment, as applicable, has been properly approved prior to incurring any expenses.

3. Determine that claim status in claim file agrees with data submitted to the NFIP, and that the policy was in-force on the date of loss.

4. Verify that unallocated loss adjustment expense was appropriately determined and reported.

5. Review IBNR reserve calculation to determine whether it is consistent with the methodology reported to FEMA.

6. Determine whether adjustments to the outstanding case reserves are proper and made on a timely basis.

7. If salvage or subrogation is significant in relation to the company's claims activity, select a sample of recoveries to determine that they were properly recorded (data from claims file agrees with submission to the NFIP).

E. Determine whether cash receipts are being promptly deposited to the Restricted Account and that excess cash is being swept from the account in accordance with the WYO Accounting Procedures Manual.

F. Determine whether reimbursements from the Restricted Account or drawdowns on the Treasury Letter-of-Credit are made in accordance with the WYO Accounting Procedures Manual.

G. Obtain bank reconciliations for the restricted account and any other flood-related account(s) as of the end of the Arrangement Year. Review bank reconciliations for old and/or unusual reconciling items. Reconcile restricted account activity to premium and claim data reported in monthly financial reports on a sample basis.

H. Reconcile accounts receivable, accounts payable, premium suspense and other miscellaneous trial balances to reported amounts. Test the propriety of the detail on a sample basis.

I. Make inquiries of management and review available reports relating to activity subsequent to year-end for items that should have been included in Arrangement Year results.

B. Audits for Cause

In accordance with the terms of the WYO Arrangement, the Administrator, on his own initiative or upon written recommendation of the WYO Standards Committee or the FEMA Inspector General, may conduct for-cause audits of participating companies. The following criteria, in combination or independently, may constitute the basis for initiation of such an audit:

1. Self-Audit

—Adequate reporting was not received from a company, even after follow-up requests.

—Self-audit report did not meet criteria of the Financial Control Plan.

—Review of the reported self-audit results indicates problem areas which require further explanation or follow-up.

—Reports of self-audit results do not adequately respond to problems or deficiencies raised through other aspects of the Financial Control Plan (i.e., errors/rejects from statistical reporting, financial reporting discrepancies, financial/statistical reconciliation problems, etc.)

—Triennial audit results indicate that the self-audits were not adequately performed and that the reported results cannot be relied upon.

2. Underwriting

—Excessively high frequency of errors in underwriting:

a. Issuing policies for ineligible risks.

b. Issuing policies in ineligible communities.

c. Consistent premium rating errors.

d. Missing or insufficient documentation for submit for rate policies.

e. Other patterns of consistent errors.

—Abnormally high rate of policy cancellations or non-renewals.

—Policies not processed in a timely fashion.

—Duplication of policy coverage noted.

—Problems with Rollover from National Flood Insurance Program (NFIP) to WYO (duplication of coverage, timeliness of changeover).

—Relational type edits indicate an unusually high or low premium amount per policy for the geographical area.

—Self-audit or triennial audit results indicate unusual volume of errors in underwriting.

3. Claims

—Reinspections indicate consistent patterns of:

a. Losses being paid when not covered.

b. Statistical information being reported on original loss adjustment found to be incorrect on reinspection.

c. Salvage/subrogation not being adequately addressed.

d. Consistent overpayments of claims.

—Unusually high count of erroneous assignments and/or claims closed without payment (CWP). (WYO Company is paid a flat fee for CWP cases where little or no work is done—risk is fraudulent CWP cases).

—Unusually low count of CWP. (May indicate inadequate follow-up of claims submitted).

—Average claim payments which significantly exceed the average for the Program as a whole.

—Lack of (adequate) documentation for paid claims.

—Claims not processed in a timely fashion.

—Consistent failure of WYO Company to receive authorization for special allocated loss adjustment expenses prior to incurring them.

—High submission of Special Allocated Loss Adjustment Expenses (SALAE).

—Consistently high policyholder complaint level.

—Low/high count of salvage/subrogation.

—Triennial audit indicates significant problems.

4. Financial Reporting/Accounting

—Consistently high reconciliation variations and/or errors in statistical information.

—Financial and/or statistical information not received in a timely fashion.

—Letter of Credit violations are found.

—WYO Company is not depositing funds to the Restricted Account in a timely manner, or funds are not being transferred through the automated clearinghouse on a timely basis.

—Premium suspense is consistently significant, older than 60 days, and/or cannot be detailed sufficiently.

—Large/unusual balance in Cash.

—Other (Receivable and/or Payable).

—Large, unexplained differences in cash reconciliation.

—Large/unusual balances or variations between months noted for key reported financial data.

—Financial statement to statistical data reconciliation sheets improperly completed indicating proper review of information is not being performed prior to signing certification statement.

—Repeated failure to respond fully in a timely manner to questions raised by FIA or its servicing agent concerning monthly financial reporting.

—Triennial audit indicates significant problems.

C. State Insurance—Department Examination

It is expected that audits of WYO Companies by independent accountants and/or state insurance departments, aside from those conducted by the FIA or its designee, will include flood insurance activity. When such audits occur, a financial officer for the WYO Company will notify the FIA, identifying the auditing entity and providing a brief statement of the overall conclusions that relate to flood insurance and the insurer's financial condition, when available. In the case of an audit in progress, a brief statement on the scope of the audit should be provided to the FIA. A checklist will be utilized for this reporting and will be provided to WYO Companies by the FIA.

The WYO Companies will maintain on file the reports resulting from audits, subject to on-site inspection by the FIA or its designee. At the FIA's request, the WYO Company will submit a copy of the auditor's opinion, should one be available, summarizing the audit conclusion.

Dated: April 22, 1988.

Harold T. Duryee,

Federal Insurance Administrator.

[FR Doc. 88-9378 Filed 4-27-88; 8:45 am]

BILLING CODE 6718-01-M

44 CFR Part 62

National Flood Insurance Program

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This final rule revises the flood insurance commission allowances paid to property insurance agents and brokers ("producers") for the procurement of new flood insurance policies, and renewals thereof, on behalf of policyholders insured by the National Flood Insurance Program (NFIP) through its Servicing Agent. The commissions are being increased in connection with the procurement of new business, as an incentive to increase the NFIP's policies-in-force base, and are being decreased with respect to the renewals of policies to reflect the reduced level of activity required of producers by reason of the NFIP's fully automated renewal billing system whereby payors of renewal premiums are billed directly by—and make premium payments directly to—the NFIP, with the producer being advised of the renewal activity. This final rule is being implemented as part of FEMA's continuing efforts to reduce expenses for the National Flood Insurance Program. While the changes to the commission rates in this final rule differ somewhat from the rates originally proposed, there will still be a cost savings to the Federal government if the rate of new business activity remains constant. If property insurance agents and brokers do increase their new business activity, which the rule is designed to encourage, there may be little or no savings to the Federal government from this commission change, but this would be balanced by the increase in policy sales, which will result in a greater spread of the insurance risk, a major goal of the Program. This would produce savings to the Federal government in another way.

EFFECTIVE DATE: October 1, 1988.

FOR FURTHER INFORMATION CONTACT: Donald L. Collins, Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street SW., Washington, DC 20472; telephone number (202) 646-3419.

SUPPLEMENTARY INFORMATION: On May 20, 1987, FEMA published for comment in the **Federal Register** (Vol. 52, Page 18929) a proposed rule to revise the flood insurance commission allowances paid to property insurance agents and brokers ("producers") for the procurement of new flood insurance policies, and renewals thereof, on behalf of policyholders insured by the National

Flood Insurance Program (NFIP) through its Servicing Agent.

Of the approximately 100,000 agents listed in the records of the NFIP Servicing Agent, less than one percent (760) sent letters commenting on the proposed rule. The tally of comments included one state agency, a committee of flood insurance consisting of representatives from various agents trade associations, nine agents trade associations, 56 Congressional letters forwarding correspondence from—or making inquiries on behalf of—insurance agencies and/or independent insurance agents. The remainder of the comments were from private insurance companies and/or individual independent insurance agents.

Although many of the comments received were generally supportive of the need to reduce expenses for the National Flood Insurance Program (NFIP), all of the respondents were opposed to the proposed changes in the commission rate. The comments opposing the rule, in summary, contend that the commission rate should not be reduced (some even suggested it should be raised) because the flood insurance program is "too complex * * * has too many forms * * * is difficult to sell * * * requires more work than other lines of insurance * * * involves more office expense * * * requires the expenditure of more of the agent's time for self-education such as program updating, attending agent workshops, etc * * * requires several years of commission payment for renewals—without major changes—to compensate for the 'inadequate' amount of commission on newly written policies."

Several of the respondents contended that the marketing of flood insurance policies would be adversely affected by the proposed revision because all of the issues listed above, in combination with the proposed change, would give agents less of an incentive to continue selling flood insurance. On the contrary, since the issues raised by the respondents relating to program complexity and the degree of effort required in writing and servicing flood insurance are not new but existed at a time when agents' compensation (because of lower premium rates) was actually smaller than today, it is FEMA's belief that agents willing to write flood policies at that time would be even more willing to do so now that the commission rate for new business is being increased. Indeed, because of the recognition (reinforced by the substantive concerns expressed by the respondents) that the flood insurance line is a unique form of insurance with procedures and requirements that are not found with other types of insurance and because of the desire to encourage agents to focus their efforts on new business, it has been decided to increase the new business commission rate higher than originally proposed, and thus this final rule increases the commission rate for new business from the proposed 16 percent to 17 percent for the first $2,000 of premium.

The proposal to reduce to 5 percent the commission rate for new business applications which cannot pass rating edits generated negative comments from a number of respondents. Concern was expressed that properly completed applications could be "kicked out of the system" because of a mistake by the operator when keying-in information, requiring additional efforts by the agent to verify the accuracy of the application as originally submitted in order to obtain the correct commission rate. FEMA believes that the respondents have raised valid concerns and that the proposal should not be implemented at this time. Therefore, the provision for paying a reduced commission rate for new business applications that do not pass rating edits is being deleted in this final rule, and the issue will be further examined for possible publication at a later date after obtaining additional input through subsequent proposed rule.

It is recognized that, whenever any reduction of compensation is proposed under any program (whether government or private), there is going to be resistance because it reduces the income of affected persons. However, as indicated in the supplementary information to the proposed rule, direct bill renewals requiring virtually no effort on the part of the producers currently account for 71 percent of the NFIP's direct business policies. Bearing this in mind, FEMA cannot justify continuing to provide the same commission for renewals that is given for new business. While the automated billing system has, in most cases, greatly diminished the level of effort required of producers as far as policy renewals are concerned, FEMA acknowledges, as pointed out by a large number of the respondents, that producers are often called upon during the policy term to perform servicing functions such as (1) completing and filing change endorsements to add or change the name of a mortgagee if, for example, a policyholder refinances his mortgage; (2) filing a claim for loss if the insured property sustains flood damage; or (3) responding to policyholder inquiries concerning coverage issues. It is the contention of the respondents that the current commission rate for policy renewals has helped to make up for the many servicing functions performed during the policy term that do not result in any additional compensation for the producer. FEMA agrees that this is a valid position and has decided, therefore, not to reduce the commission rate for direct bill renewals as much as originally proposed, and thus this final rule increases the direct bill renewal commission rate from the proposed 12 percent to 14 percent for the first $2,000 of premium. Further, since such a small percentage of policies are renewed by application, it has been decided to eliminate the 15 percent commission rate originally proposed for that category of renewal and in place thereof also establish a 14 percent commission rate. Thus, all policy renewals, whether renewed by application or the direct bill method, will earn 14 percent commission on the first $2,000 of premium.

This final rule also includes a revision of the chart showing the commission rate for mid-term increases in amounts of insurance added by endorsement which, due to an editorial oversight, was not included in the proposed rule. Consistent with the commission rates discussed above, agents will receive (for the first $2,000 of premium) a 17 percent commission for a mid-term endorsement of a first-year policy and a 14 percent commission for a mid-term endorsement of a renewal policy.

Many respondents suggested that FEMA consider taking other actions to save money in lieu of revising the commission rate. Suggestions included simplifying the NFIP, including the rating system; increasing the premiums for flood insurance; increasing coverage limits; instituting stricter underwriting; improving market penetration; developing other policy forms such as a condominium master policy; etc. FEMA agrees that such actions are needed and is continually reviewing and reappraising the NFIP in an effort to streamline the operation and effectiveness of the NFIP and at the same time achieve greater administrative and fiscal effectiveness. Projects currently under development, for example, include a "flat fee" policy, a condominium master policy and a community rating system whereby the flood insurance rates to be applied in calculating the premiums for properties located in a specific community would be based on community-wide actions that reduce future flood damage to buildings and their contents. As FEMA continues it efforts to satisfy the premium requirements for the historical average loss year and to reduce the general taxpayers' burden with a more equitable sharing of the costs of flood losses between the general taxpayers

and the insureds, it may be necessary to make upward adjustments in flood insurance premium rates. Indeed, a rule is currently pending (Vol. 53, page 4673 of the **Federal Register** dated February 17, 1988) to increase the chargeable (subsidized) rates, which apply to all structures located in communities participating in the Emergency Program of the NFIP and to certain structures in communities in the Regular Program. As these and any future increases in flood insurance premium rates become effective, the amounts of commission income for the producers of NFIP policies will increase. Such increases will help to offset the reduction in compensation to the producers as a result of this final rule.

As pointed out in the supplementary information to the proposed rule, FEMA planned to address the commission arrangements under the WYO Program in Fiscal Year 1988 in connection with the general revisions to the WYO Arrangement with insurers participating in the Program and, in fact, a revision to the commission arrangements under the WYO Program was included in a proposed rule published in the **Federal Register** on January 7, 1988 (53 FR 419). FEMA is now proceeding to issue a final rule which will revise the allowance for commissions paid to property insurance agents and brokers writing policies of flood insurance under the WYO Program. This final rule also will have an effective date of October 1, 1988. The direct business system and the WYO Program system are both designed to encourage new business. Under both systems, if not such new business is produced, the amount of commission will be less than it is currently. Conversely, if a lot of new business is produced, the amount of commission allowance could be higher than it is currently. In that case, the increase in new business would result in a greater spread of the risk, a very desirable insurance goal and a source of another type of savings. It is anticipated that the two commission systems will produce an average commission that is comparable. FEMA will be monitoring these two systems over the next couple of years to determine how well they are working and to determine if any changes to the systems are needed in the future.

FEMA has determined, based upon an Environmental Assessment, that this rule will not have significant impact upon the quality of the human environment. As a result, an Environmental Impact Statement will not be prepared. A finding of no significant impact is included in the formal docket file and is available for public inspection and copying at the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

This rule does not have a significant economic impact on a substantial number of small entities and has not undergone regulatory flexibility analysis.

This rule is not a "major rule" as defined in Executive Order 12291, dated February 27, 1981, and, hence, no regulatory analysis has been prepared.

FEMA has determined that this rule does not contain a collection of information requirement as described in section 3504(h) of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 62

Flood insurance.

Accordingly, 44 CFR Chapter I, Subchapter B, is amended as follows:

PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

1. The authority citation for Part 62 continues to read as follows:

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

2. Section 62.6(a) is revised to read as follows:

§ 62.6 Minimum commissions.

(a) The earned commission which shall be paid to any property or casualty insurance agent or broker duly licensed by a state insurance regulatory authority, with respect to each policy or renewal the agent duly procures on behalf of the insured, in connection with policies of flood insurance placed with the NFIP at the offices of its servicing agent, but not with respect to policies of flood insurance issued pursuant to Subpart C of this part, shall not be less than $10 and is computed as follows:

(1) In the case of a new or renewal policy, the following commissions shall apply based on the total premiums paid for the policy term:

Premium amount	Commissions (percent)
First $2,000 of Premium:	
Direct bill renewals	14
Renewal applications	14
New business applications	17
Excess of $2,000:	
All Business	5

(2) In the case of mid-term increases in amounts of insurance added by endorsements, the following commissions shall apply based on the total premiums paid for the increased amounts of insurance:

Premium amounts	Commissions (percent)
First $2,000 of Premium:	
Endorsement of first-year policy	17
Endorsement of renewal policy	14
Excess of $2,000:	
All business	5

* * * * *

Dated: April 22, 1988.

Harold T. Duryee,

Federal Insurance Administrator.

[FR Doc. 88-9379 Filed 4-27-88; 8:45 am]

BILLING CODE 6718-21-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-183; RM-5636]

Radio Broadcasting Services; Kotzebue, AK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 280A to Kotzebue, Alaska, as that community's first local FM service, in response to a petition filed on behalf of Arctic Broadcasting Association. With this action, the proceeding is terminated.

DATES: Effective June 6, 1988. The window period for filing applications on Channel 280A at Kotzebue, Alaska, will open on June 7, 1988, and close on July 7, 1988.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530, regarding the allocation. Questions related to the application filing process should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau, (202) 632-0394.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-183, adopted March 28, 1988, and released April 20, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Alaska, by adding Kotzebue, Channel 280A.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-9353 Filed 4-27-88; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 86-477; RM-5540]

Radio Broadcasting Services; Marathon, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 232C2 for Channel 232A at Marathon, Florida, and modifies the license for Station WMUM(FM), to specify the new channel, at the request of the licensee Breeze 94, Inc. With this action, this proceeding is terminated.

DATE: Effective Date: June 3, 1988.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-477, adopted March 30, 1988, and released April 19, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington DC 20037.

List of Subjects in 47 CFR Part 73:

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments is amended in the entry for Marathon, Florida, by adding Channel 232C2 and deleting Channel 232A.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-9360 Filed 4-27-88; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 87-412; RM-5914]

Radio Broadcasting Services; Litchfield, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes FM Channel 235C2 for Channel 237A at Litchfield, Minnesota, in response to a petition filed by Litchfield Broadcasting Corporation. In addition, we have authorized the modification of the license for Station KLFD-FM to specify operation on Channel 235C2 in lieu of Channel 237A. There is a site restriction 12.8 kilometers northwest of the community. The coordinates for Channel 235C2 are 45-13-37 and 94-36-20. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 6, 1988.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-412, adopted March 30, 1988, and released April 20, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments under Minnesota is amended by removing Channel 237A and adding Channel 235C2 at Litchfield.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-9352 Filed 4-27-88; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 87-380; RM-5732]

Radio Broadcasting Services; Thief River Falls, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates FM Channel 257A to Thief River Falls, Minnesota, as that community's third FM broadcast service, in response to a petition filed by Northern Minnesota Associates. Canadian concurrence has been obtained for the allotment of Channel 257A at Thief River Falls. The coordinates for Channel 257A are 48-07-06 and 96-10-24. With this action, this proceeding is terminated.

DATES: Effective June 6, 1988. The window period for filing applications will open on June 7, 1988, and close on July 7, 1988.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-380, adopted March 30, 1988, and released April 20, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments under Minnesota is amended

by adding Channel 257A at Thief River Falls.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-9350 Filed 4-27-88; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 87-94; RM-5584]

Radio Broadcasting Services; Mesquite, NV

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: On April 8, 1988, at 53 FR 11668, the Commission published a Final Rule proceeding concerning an FM allotment to Mesquite, NV. This document corrects the effective and window dates.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

DATES: The effective date of the final rule is now May 16, 1988. The dates on which the period will open and close are now May 17, 1988 and June 15, 1988, respectively.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88-9393 Filed 4-27-88; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 87-308, RM-5828]

Radio Broadcasting Services; Socorro, NM

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Haynes Communications Co., herein substitutes Channel 284C for Channel 224A at Socorro, New Mexico, and modifies its license for Station KHBN-FM to specify the higher powered channel. Haynes Communications Co. originally requested, and the Commission proposed, to substitute adjacent Channel 225C1 for Channel 224A at Socorro and to modify its station's license accordingly. However in comments Haynes amended its proposal to request instead the substitution of non-adjacent Channel 284C. Section 1.420 of the Commission's Rules permits a station's license to be upgraded to a non-adjacent superior class where an additional equivalent channel is available for use by other interested parties. While the Commission's Rules do not permit the acceptance of competing expressions of interest where an adjacent channel upgrade is proposed, the Commission found that the public interest would be served by substituting Channel 284C for Channel 224A at Socorro at this time based on the fact that there is at least one additional equivalent channel (Channel 225C) for use by any such interested party. H&HSB Corporation, assignee of Station KHBN-FM, also filed comments supporting the substitution of channels. Channel 284C can be allocated to Socorro with a site restriction of 28.5 kilometers (17.7 miles northwest. The coordinates for this allotment are North Latitude 34-09-54; West Longitude 107-10-45. Concurrence by the Mexican Government in the allotment of Channel 284C has been received since Socorro is located within 320 kilometers (199 miles) of the U.S.-Mexican border. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 6, 1988.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-308, adopted March 28, 1988, and released April 20, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments for New Mexico is amended by revising the entry for Socorro to delete Channel 224A and add Channel 284C.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-9355 Filed 4-27-88; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 87-293; RM-5786]

Radio Broadcasting Services; Canaan VT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 231A to Canaan, Vermont, as that community's first local FM service, as requested by Timothy D. Martz. The channel can be allocated in compliance with § 73.207 of the Commission's Rules. The coordinates used in determining the available site are 44-59-46 and 71-32-20. Concurrence by the Canadian government has been obtained. With this action, this proceeding is terminated.

DATE: Effective June 6, 1988. The window period for filing applications will open on June 7, 1988, and close on July 7, 1988.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-293, adopted March 29, 1988, and released April 20, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the table of FM Allotments, is amended under Vermont by adding Channel 231A to Canaan.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-9354 Filed 4-27-88; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 87-179; RM-5651]

Television Broadcasting Services; Bryan and College Station, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots UHF Television Channel 50- to College Station, Texas, as that community's first commercial television service, at the request of Central Texas Broadcasting Co., Ltd. In addition Channel *15 has been reallotted from Bryan, Texas to reflect its actual use at College Station. The Commission has imposed a freeze in specified metropolitan areas on applications for new television stations pending the outcome of an inquiry into the uses of advanced television systems (ATV) in broadcasting. This proposal is affected by the freeze. Applications for Channel 50- at College Station will not be accepted until the freeze has been lifted. With this action this proceeding is terminated.

EFFECTIVE DATE: June 6, 1988.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is summary of the Commission's Report and Order, MM Docket No. 87-179, adopted March 30, 1988, and released April 20, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.606(b) [Amended]

2. Section 73.606(b), the Table of Allotments is amended by removing Channel *15 from Bryan, Texas; and adding Channels *15 and 50- to College Station, Texas.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-9351 Filed 4-27-88; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 86-499; FCC 88-52]

Issues-Programs List for Public Broadcasting Licensees

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action conforms § 73.3527(a)(7), the current Commission public file rule for noncommercial educational broadcasters, to the public file rule for commercial licensees found in § 73.3526(a)(8) of the Commission's rules. Originally, both commercial and noncommercial licensees were required to place in their public files a list of at least five to ten issues which were addressed by their station's programming during the preceding three month period. In 1985, the United States Court of Appeals for the D.C. Circuit rejected this approach as an inadequate public file requirement for commercial broadcasters. Accordingly, in 1986, the Commission revised the public file rule for commercial licensees to require that they maintain a quarterly list of programs that, in the broadcaster's good faith judgment, represent the station's most significant treatment of issues that the licensee believes to be of community concern. In the current proceeding, the Commission found that because noncommercial licensees still maintained the quarterly issues-programs list invalidated by the court, it would be consistent with the court's decision and facilitate public participation in the license renewal process to require that commercial and noncommercial broadcast licensees be subject to the same public file obligations.

EFFECTIVE DATE: May 31, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Douglas Minster, Mass Media Bureau, (202) 632 7792.

SUPPLEMENTARY INFORMATION: This is a summary of a Commission Report and Order in MM Docket No. 86-499 adopted February 16, 1988 and released March 4, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, Northwest, Suite 140, Washington, DC 20037.

Summary of the Report and Order

1. After carefully reviewing this issue and the record developed in this proceeding, the Commission concluded that it would be in the public interest to require that noncommercial broadcasters maintain public file records reflecting their most significant treatment of community issues, as commercial broadcasters are now obligated to do. The Commission reached this conclusion for several reasons. First, because the rules in effect for noncommercial licensees are identical to those that caused the court's concern in prior decisions, the former rules may be presumed to be similarly infirm. Second, the Commission found no valid regulatory purpose in imposing different recordkeeping requirements for commercial and noncommercial broadcasters. Even though commercial and noncommercial broadcasters face somewhat different economic realities, the rationale for applying the "significant treatment" requirement to commercial broadcasters pertains equally to noncommercial broadcasters. Third, the Commission indicated that this type of recordkeeping requirement can give the public substantial and sufficient information about a station's issue responsive programming obligation without unduly burdening the licensee. Additionally, such action will promote regulatory consistency and facilitate the public's use and understanding of the public files. Finally, the Commission stated that this action should benefit noncommercial licensees by conferring on them a greater degree of discretion in establishing a record of their past programming performance since they will no longer be constrained by the five-issue minimum and the ten-issue maximum in listing their programming in their public file.

Final Regulatory Flexibility Analysis

2. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that the adopted rule will slightly increase the recordkeeping

burden on some licensees, but is necessary in order to ensure that the requirements imposed on public licensees—that they demonstrate that their responsiveness to the needs of their local communities—are consistent with the Communications Act of 1934, as amended.

Paperwork Reduction Act Statement

3. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose a modified information collection and/or recordkeeping requirement on noncommercial radio and television licensees. Implementation of any modified requirement will be subject to approval by the Office of Management and Budget as prescribed by the Act.

4. Authority for the action adopted may be found in sections 4 and 303 of the Communications Act of 1934, as amended.

5. Accordingly, it is ordered, That the Commission's Rules are amended, effective May 31, 1988, as described and set forth herein.

List of Subjects in 47 CFR Part 73

Television broadcasting, Radio broadcasting.

47 CFR Part 73 is amended as follows:

PART 73—[AMENDED]

6. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

7. 47 CFR 73.3527 is amended by revising paragraph (a)(7) to read as follows:

§ 73.3527 Local public inspection file of noncommercial educational stations.

(a) * * *

(7) For nonexempt noncommercial educational broadcast stations, every three months a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period. The list for each calendar quarter is to be filed by the tenth day of the succeeding calendar quarter (e.g. January 10 for the quarter October–December, April 10 for the quarter January–March, etc.). The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs should include, but is not limited to, the time, date, duration and title of each program in which the issue was treated.

* * * * *

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88-9392 Filed 4-27-88; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 74

[MM Docket 87-13; FCC 87-244]

Revised FCC Form 346 (Application for Authority to Construct or Make Changes in Low Power TV, TV Translator or TV Booster Station) (February 1988 edition) and new FCC Form 349 (Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station) (March 1988 edition)

AGENCY: Federal Communications Commission (FCC).

ACTION: Notice of Revised FCC Form 346 and New FCC Form 349.

SUMMARY: This action gives notice of the availability and filing requirements of revised FCC Form 346 and the creation of new FCC Form 349 as a consequence of the Commission's action in *Report and Order*, MM Docket 87-13, FCC 87-244 (52 FR 31398; 8/20/87) establishing rules for television booster stations and modifying the rules for FM booster stations.

FOR FURTHER INFORMATION CONTACT: Keith A. Larson, Low Power Television Branch, Mass Media Bureau, FCC, telephone (202) 632-3894 or Tom English Auxiliary Services Branch, Mass Media Bureau, FCC, telephone (202) 634-6307.

April 20, 1988.

Revised FCC Form 346 and New FCC Form 349

The Commission's *Report and Order* in MM Docket 87-13, 2 FCC Rcd 4625 (1987), established rules for television booster stations (47 CFR Part 74, Subpart G) and modified the rules for FM booster stations (47 CFR Part 74, Subpart L). Therein, the Commission stated that it could not process applications for booster stations under the new rules until relevant forms were revised, approved by the Office of Management and Budget and ready for distribution. These steps have now been accomplished. The revised FCC Form 346 is now entitled "Application for Authority to Construct or Make Changes in a Low Power TV, TV Translator or TV Booster Station" (February 1988 edition). A new FCC Form 349 has been created and is entitled "Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station" (March 1988 edition).

Effective immediately, the Commission will begin accepting applications for television booster stations, subject to the new rules. Permittees and licensees of full service television broadcast stations only may apply for a permit to construct a new television booster station. These applications must be filed on the February 1988 edition of FCC Form 346.

The current May 1987 edition of FCC Form 346 can continue to be used by applicants seeking to make minor changes in the authorized facilities of television translator or low power television stations. However, use of the revised FCC Form 346 will help reduce application processing time, and minor change applicants are encouraged to use this form. Applications for new television translator or low power television stations or for major changes in the authorized facilities of such stations can be filed only during certain "window" periods that are specified by Commission *Public Notices*. In a subsequent *Public Notice*, the Commission will announce the dates of the next filing window, giving 30 days advance notice. The February 1988 edition of FCC Form 346 will be required to be used in the next window period.

Also effective immediately, the Commission will begin accepting applications for FM booster stations, subject to the new rules. Prior to June 1, 1988, the Commission will continue to accept applications for FM boosters made on FCC Form 349P. Applications for exempt FM translators [1] may be made on the May 1987 edition of FCC Form 346. However, use of the new Form 349 will lessen application processing time and is strongly encouraged.

Effective June 1, 1988, *ALL* low power television, FM and television translator, and FM and television booster station applications must be filed on the Februrary 1988 edition of FCC Form 346 or the March 1988 edition of FCC Form 349, as applicable. All previous editions of FCC Form 346 and FCC Form 349P are cancelled as of that date. All

---

[1] On March 34, 1988, the Commission announced in *Public Notice*, Memo No. 2249, that it was imposing a general freeze on the acceptance of applications for new FM translator stations pending its final action in the *Notice of Inquiry*, MM Docket 88-140, FCC 88-120. However, there are two exceptions to the FM translator freeze. First, the Commission will accept applications for new noncommercial, educational FM translators seeking assignment to the reserved frequency band (channels 200-220). Secondly, the Commission will also permit the filing of applications for stations that would be mutually exclusive with an application that is exempt from the freeze. In these cases, the competing applications will also be exempt from the freeze.

applications submitted on or after June 1, 1988 on an obsolete edition of these forms will be subject to the provisions of § 73.3566 of the Commission's Rules governing defective applications.

A separate *Public Notice* will announce an effective date for the use of a revised FCC Form 347 for television translator, low power television and television booster stations. A new FCC Form 350 for making license applications for FM translators and FM boosters will also be announced. This will be issued upon approval and availability of these forms. Until then, license applications may be made on the current editions of FCC Forms 347 and 349L, as applicable.

Revised FCC Form 346 and the now FCC Form 349 are new available and can be obtained from the FCC's Operations Support Division, Service and Supply Branch, Room B-10, 1919 M Street NW., Washington, DC 20554, telephone number (202) 632-7272.

For further information concerning the revised FCC Form 346 and the filing of television booster applications, contact Keith A. Larson, Chief, Low Power Television Branch, Mass Media Bureau at telephone number (202) 632-3894. For questions regarding the new FCC Form 349 and the filing of FM booster applications, contact Tom English, Auxiliary Services Branch, Mass Media Bureau at telephone number (202) 634-6307.

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88-9397 Filed 4-27-88; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 53, No. 82
Thursday, April 28, 1988

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

California Kiwifruit; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish an assessment rate under Marketing Order 920 for the 1987–88 and 1988–89 fiscal period. Funds to administer this program are derived from assessments on handlers.

DATE: Comments must be received by May 9, 1988.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2085–S, Washington, DC 20090–6456. Comments should reference the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Todd A. Delello, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone 202–475–5610.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Order No. 920 (7 CFR Part 920) regulating the handling of kiwifruit grown in California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act. This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities.

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

There are approximately 145 handlers of California kiwifruit under this marketing order, and approximately 1225 California kiwifruit producers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of the handlers and producers may be classified as small entities.

The marketing order requires that the assessment rate for a particular fiscal year shall apply to all assessable kiwifruit handled from the beginning of such year. An annual budget of expenses is prepared by the committee and submitted to the Department of Agriculture for approval. The members of the committee are handlers and producers of kiwifruit. They are familiar with the committee's needs and with the costs for goods, services, and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the committee is derived by dividing anticipated expenses by expected shipments of kiwifruit. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses. A recommended budget and rate of assessment is usually acted upon by the committee before the season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approval must be expedited so that the committee will have funds to pay its expenses.

The Kiwifruit Administrative Committee (KAC) is currently authorized expenses of $112,618 and an assessment rate of $0.0125 per tray has been established for the fiscal period ending July 31, 1988. At the April 6, 1988 committee meeting the KAC unanimously recommended increasing this amount to $130,418. The $17,800 increase would be used to purchase two trucks for use by the KAC field agents. Since the committee has approximately $86,000 in its operating reserve to cover this additional expense, it is not necessary to alter the assessment rate at this time.

During the April 6 meeting, the KAC also recommended a budget and assessment rate for the 1988–89 fiscal period which begins August 1, 1988. The recommended amount of $112,618 and assessment rate of $0.0125 is the same as last year. Major expense items include salaries ($58,248) and travel expenses ($15,594). Projected shipments of 8.7 million trays would yield $109,000 in assessment income. This income, when added to approximately $4,000 from the reserve, would be adequate to cover budgeted expenses.

While this proposed action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed onto producers. However, these costs would be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

Based on the foregoing, it is found and determined that a comment period of less than 30 days is appropriate because the assessment rate approval for this program needs to be expedited. The committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis.

List of Subjects in 7 CFR Part 920

Marketing agreements and orders, Kiwifruit (California).

For the reasons set forth in the preamble, it is proposed that § 920.203 be revised and § 920.204 be added as follows:

PART 920—[AMENDED]

1. The authority citation for 7 CFR Part 920 continues to read as follows:

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

2. Section 920.203 is revised and § 920.204 is added to read as follows:

§ 920.203 Expenses and assessment rate.

Expenses of $130,418 by the Kiwifruit Administrative Committee are authorized and an assessment rate of $0.0125 per 7–½ pound tray or equivalent is established for the fiscal year ending July 31, 1988. Unexpended funds may be carried over as a reserve.

§ 920.204 Expenses and assessment rate.

Expenses of $112,618 by the Kiwifruit Administrative Committee are authorized and an assessment rate of $0.0125 per 7–½ pound tray or equivalent is established for the fiscal year ending July 31, 1989. Unexpended funds may be carried over as a reserve.

Dated: April 25, 1988.

Robert C. Keeney,

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

[FR Doc. 88–9365 Filed 4–27–88; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1710

Electric Loan Policies and Application Procedures

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend 7 CFR Chapter XVII, by adding a new part, Part 1710, Electric Loan Policies and Application Procedures and adding §§ 1710.50—1710.55, Alternate Loan Application Procedures. The new Part develops electric loan policies and application procedures. The Sections establish a simplified alternate loan application procedure for distribution borrowers meeting specified financial, operational and managerial criteria. The basic loan application procedure for borrowers not meeting the simplified criteria will remain unchanged and is set forth in Section IX, Application Procedures, of REA Bulletin 20–2, Electric Loan Policies and Application Procedures, dated June 13, 1977.

DATE: Comments must be received by REA June 27, 1988.

ADDRESS: Comments should be addressed to: Archie W. Cain, Director, Electric Staff Division, U.S. Department of Agriculture, Rural Electrification Administration, Room 1246–S, 14th & Independence Avenue, SW., Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Robert W. Ford, Chief, Loans and Management Branch, Electric Staff Division, U.S. Department of Agriculture, Rural Electrification Administration, Room 1237–S, 14th & Independence Avenue SW., Washington, DC 20250; Telephone: (202) 382–1932.

SUPPLEMENTARY INFORMATION: REA proposes to develop policy and procedures to set forth a new procedure for submitting a loan application as an alternate to that prescribed in Section IX, REA Bulletin 20–2, Electric Loan Policies and Application Procedures, dated June 13, 1977 (an Appendix A Bulletin.) This action has been reviewed in accordance with Executive Order 12291, Federal Regulations. This action does not: (1) Have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices to consumers, individual industries, Federal, state or local government agencies, or geographic regions, (3) result in significant adverse effects on competition, employment, investment or productivity, and therefore, has been determined to be "not major." REA has concluded that promulgation of this rule does not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969, as amended. (42 U.S.C. 4321 *et seq.*), and therefore, does not require an environmental impact statement or an environmental assessment. This proposed rule is a categorical exclusion under REA's 7 CFR Part 1794, Environmental Policies and Procedures (*i.e.*, 7 CFR 1794.31 (b)(17))

All of the recordkeeping requirements in this proposed regulation have received Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1980 [44 U.S.C. 3507 *et seq.*]. This action does not fall within the scope of the Regulatory Flexibility Act. This program is listed in the Catalog of Federal Domestic Assistance under No. 10.850, Rural Electrification Loans and Loan Guarantees. For the reasons set forth in the Final Rule related Notice to 7 CFR Part 3015, Subpart V in 50 FR 47034, November 14, 1985, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Background

REA is the lead lender to approximately 924 active electric distribution utility systems serving rural areas throughout the Nation. REA has determined that a considerable number of the distribution systems that submit loan applications have sufficient financial strength, as well as demonstrated operational and managerial experience, to enable REA to make a determination of adequate loan security and feasibility without submitting all the material routinely required in a loan application. In determining the applicant's financial strength, REA will consider the applicant's current equity position and its earnings and cash flows over the previous three years The minimum equity level of 25 percent, coupled with the limitation on the loan application of 20 percent of Total Utility Plant, will limit the risk to REA of the equity level rapidly falling to a level requiring a more detailed review in the loan consideration process.

The proposed earnings ratio, called a Modified Times Earned Ratio (MTIER), looks at the earnings of the loan applicant before patronage capital and dividends have been added. REA believes that using the MTIER and setting the minimum qualifying level at 1.50 will offer sufficient earnings coverage over and above the level REA has historically required for all distribution borrowers. Similarly, a Modified Debt Service Coverage (MDSC) ratio that excludes patronage capital and dividends which is at least at a level of 1.25 is an indication of a loan applicant that requires less REA review as to the degree of risk associated with a loan application.

In addition to the financial tests, REA will continue to require loan applicants to maintain for their use the necessary engineering planning and financial forecasting documents currently submitted by all loan applicants. The review of these documents will be done by the REA field staff as they are routinely developed by the borrowers for their own use This should reduce the administrative requirements on both the borrower and REA at the time that a loan application is being considered. Borrowers and their advisory organizations have encouraged REA to reduce the loan processing time and the

number of documents which must be submitted.

REA will benefit from the alternative loan application procedures since it will allow the headquarters staff to spend more time evaluating loan applications from borrowers with less financial or operational strength which pose greater loan security risk.

List of Subjects in 7 CFR Part 1710

Administrative practice and procedure, Electric utilities, Loan program.

In view of the above, REA proposes to amend 7 CFR Part XVII by adding Part 1710 and §§ 1710.50–1710.55 to read as follows:

PART 1710—ELECTRIC LOAN POLICIES AND APPLICATION PROCEDURES

Subparts A–B—[Reserved]

Subpart C—Alternate Loan Application Procedure

Sec.
1710.50 Purpose.
1710.51 Policy.
1710.52 Definitions.
1710.53 Alternate loan application.
1710.54 Qualification criteria.
1710.55 Procedure.

Authority: 7 U.S.C. 901–950b, Rural Electrification Act of 1936, as amended (RE Act); Pub. L. 99–591, Delegation of Authority by the Secretary of Agriculture, 7 CFR 2.23; Delegation of Authority by the Under Secretary for Small Community and Rural Development, 7 CFR 2.72.

Subparts A–B [Reserved]

Subpart C—Alternate Loan Application Procedure

§ 1710.50 Purpose.

It is the purpose of this policy to set forth an alternative procedure to that prescribed in Section IX, REA Bulletin 20–2, Electric Loan Policies and Application Procedures, dated June 13, 1977 (an Appendix A Bulletin) for submitting to the Rural Electrification Administration (REA) a loan application.

§ 1710.51 Policy.

It is the policy of the REA to provide an alternative procedure for submitting a loan application for those distribution borrowers meeting certain financial, operational and managerial tests.

§ 1710.52 Definitions.

As used in this part:

(a) "Equity" means Total Margins & Equity divided by Total Assets & Other Debits. The equity percentage is obtained from REA Form 7, Financial and Statistical Report, Part C, by dividing line 32 by line 25 and multiplying by 100.

(b) "MTIER" means Modified Times Interest Earned Ratio calculated as:

$$\frac{A15 + A27 - A24 - A25}{A15}$$

where:

(1) A15 = Interest on Long-term Debt as set forth in Part A, Line 15 of REA Form 7 (Financial and Statistical Report) except that Interest on Long-term Debt shall be increased by 1/3 of the amount, if any, by which the rentals of Restricted Property (Part M, Line 3 of Form 7) exceeds two percent of Total Margins and Equities (Part C, Line 32 of Form 7).

(2) A27 = Patronage Capital or Margins as set forth in Part A, Line 27 of Form 7.

(3) A24 = Generation and Transmission Capital Credits as set forth in Part A, Line 24 of Form 7.

(4) A25 = Other Capital Credits and Patronage Dividends as set forth in Part A, Line 25 of Form 7.

(c) "MDSC" means Modified Debt Service Coverage calculated as:

$$\frac{A12 + A15 + A27 - A24 - A25}{\text{Debt Service Billed (REA + CFC + Other)}}$$

where:

(1) A12 = Depreciation and Amortization Expense as set forth in Part A, Line 12 of REA Form 7 (Financial and Statistical Report).

(2) A15 = Interest on Long-term Debt as set forth in Part A, Line 15 of REA Form 7 (Financial and Statistical Report) except that Interest on Long-term Debt shall be increased by ⅓ of the amount, if any, by which the rentals of Restricted Property (Part M, Line 3 of Form 7) exceeds two percent of Total Margins and Equities (Part C, Line 32 of Form 7)

(3) A27 = Part A, Line 27, Patronage Capital or Margins as set forth in Part A, Line 27 of REA Form 7.

(4) A24 = Generation and Transmission Capital Credits as set forth in Part A, Line 24 of Form 7.

(5) A25 = Other Capital Credits and Patronage Dividends as set forth in Part A, Line 25 of Form 7.

(6) Debt Service Billed (REA + CFC + Other) = All interest and principal billed during the appropriate calendar year plus ⅓ of the amount, if any, by which the rentals of Restricted Property (Part M, Line 3 of Form 7) exceeds two percent of Total Margins and Equities (Part C, Line 32 of Form 7).

(d) "Total Utility Plant" means the amount set forth in Part C, Line 3 of REA Form 7 (Financial and Statistical Report).

(Approved by the Office of Management and Budget under control number 0572–0016)

§ 1710.53 Alternate loan application.

(a) For distribution borrowers which meet the qualification criteria in § 1710.54, Qualification Criteria, REA will accept 2-year loan applications consisting of the following:

(1) A certified resolution of the board of directors requesting the loan, affirming that the borrower will continue to meet the requirements of the REA mortgage relative to Times Interest Earning Ratio (TIER) and Debt Service Coverage (DSC), and identifying the supplemental lender.

(2) A properly completed and executed REA Form 740c, "Cost Estimates and Loan Budget for Electric Borrowers," which clearly identifies the facilities to be financed; and

(3) A letter signed by the borrower's manager summarizing any litigation pending against the borrower which could have an adverse financial impact on the borrower.

(b) The three items referred to above will constitute a complete loan application and should be submitted through REA's General Field Representative (GFR) to the REA Area office.

(Reporting and recordkeeping requirements contained in paragraph (a)(2) were approved by the Office of Management and Budget under control number 0572–0032.)

§ 1710.54 Qualification Criteria

(a) In order to submit the alternate loan application procedure specified in § 1710.53 borrowers must meet all of the following criteria:

(1) The borrower's equity must be at least 25 percent in the year-end report for the last calendar year preceding the date of the completed loan application.

(2) The borrower must have achieved a MTIER of at least 1.50 and a MDSC of at least 1.25 for two of the three calendar years last preceding the date of the completed loan application.

(3) The financing request (REA and Supplemental components) must not exceed 20 percent of Total Utility Plant in the year-end report for the last calendar year preceding the date of the completed loan application.

(4) Additionally, the borrower must demonstrate to the satisfaction of the GFR that:

(i) The facilities requested are consistent with its REA approved Construction Work Plan and the associated Borrower's Environmental Report,

(ii) Its plant is being adequately maintained,

(iii) Its long range engineering plan and 5-year financial forecast are adequate,

(iv) It has a current REA Form 268, "Report of Compliance and Participation," on file with REA, and

(v) It is in compliance with 7 CFR 1788.40 and 1788.41 relating to flood hazard insurance.

(b) The above procedure will not be available to distribution members of any power supply borrower which is delinquent in its payments to REA or in bankruptcy proceedings. For these and all other borrowers not meeting the criteria outlined above, the existing loan application procedures set forth in Section IX, Application Procedures, of REA Bulletin 20–2, Electric Loan Policies and Application Procedures, dated June 13, 1977 (an Appendix A Bulletin) must be complied with.

(c) REA reserves the right, when it determines that special circumstances exist, to require additional data from borrowers before acting on these simplified loan applications.

(Reporting and recordkeeping requirements contained in paragraph (a)(4)(i) were approved by the Office of Management and Budget under control number 0572–0080. Reporting and recordkeeping requirements contained in paragraph (a)(4)(iii) were approved by the Office of Management and Budget under control numbers 0572–0080 and 0572–0072 Reporting and recordkeeping requirements contained in paragraph (a)(4)(iv) were approved by the Office of Management and Budget under control number 0572–0047. Reporting and recordkeeping requirements contained in paragraph (a)(4)(v) were approved by the Office of Management and Budget under control number 0571–0016.)

§ 1710.55 Procedure.

(a) Any borrower planning to submit a loan application should contact REA's General Field Representative who will review the matter and advise the borrower on which procedure to follow in submitting the application, i.e. alternate or regular loan application procedure.

(b) Copies of all forms referred to in this subpart are available from the Rural Electrification Administration, Washington, DC 20250.

Dated: April 21, 1988.

Jack Van Mark,

Acting Administrator.

[FR Doc. 88–9282 Filed 4–27–88; 8:45 am]

BILLING CODE 3410–15–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 88–287]

Transactions with Affiliates of Subsidiary Insured Institutions

Date: April 22, 1988.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or the "Corporation"), is proposing to amend its regulations pertaining to transactions between institutions whose accounts are insured by the FSLIC ("insured institution") and affiliates of those insured institutions. The proposed amendments provide, in effect, that the conflict of interest provisions of the Board's regulations will not be applicable to transactions between holding company subsidiary insured institutions and their affiliates (other than natural persons that are controlling shareholders).

DATE: Comments must be received by June 13, 1988.

ADDRESS: Send comments to Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552. Comments will be available for public inspection at this adddress.

FOR FURTHER INFORMATION CONTACT: Steven J. Gray, Attorney (202) 377–7506; Kevin A. Corcoran, Deputy Director, (202) 377–6962; V. Gerard Comizio, Director, (202) 377–6411, Corporate and Securities Division; or Julie L. Williams, Deputy General Counsel for Securities and Corporate Structure, (202) 377–6549; Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: The Competitive Equality Banking Act of 1987 ("CEBA"), Pub. L. No. 100–86, 101 Stat. 552, created a new statutory scheme to govern transactions between subsidiary insured institutions and their affiliates. Among the provisions contained in the CEBA are sections 104(d) and 110, which amend section 408 of the National Housing Act ("NHA"), 12 U.S.C. 1730a, by adding new subsections (p) and (t) respectively.

New subsection (p) provides, in effect, that the limitations and prohibitions on transactions with affiliates applicable to subsidiary insured institutions of savings and loan holding companies prior to the enactment of the CEBA will not apply to transactions between a subsidiary insured institution and its affiliates engaged in activities permissible for a bank holding company under section 4(c) of the Bank Holding Company Act ("BHCA"), 12 U.S.C. 1843(c). Those transactions will, instead, be subject to the limitations and prohibitions of sections 23A and 23B of the Federal Reserve Act ("FRA"), 12 U.S.C. 371c and 371c–1. Subsection (p) further provides that the Corporation may prescribe regulations for the purpose of defining and clarifying the applicability of the provisions of sections 23a and 23B of the FRA.[1] The Conference Report to the CEBA ("Conference Report") indicates that the intended effect of new subsection (p) is to provide "[p]arity between a bank and a thrift holding company with respect to dealings between the depository institution and affiliates engaged in activities permitted under section 4(c)(8)." [2]

New subsection 408(t) of the NHA exempts transactions between certain insured institutions (and certain of their subsidiaries) from the provisions of subsection 408(d) of the NHA restricting certain transactions between a subsidiary insured institution and its affiliates. Specifically, new subsection 408(t) provides, in pertinent part, that "an insured institution that is a subsidiary of an insured institution or insured institutions the voting stock of which is 80 percent owned by the same company shall not be subject * * * to the provisions of (408(d) of the NHA) as to transactions with such parent insured institution or affiliate insured institutions (and their subsidiaries) * * *" In addition, new subsection (t) prohibits an insured institution (or its subsidiaries) from purchasing a low quality asset (as defined in section 23A of the FRA) from another insured institution (or its subsidiaries) in any transaction exempted by the subsection. Transactions exempted by 408(t) must be on terms and conditions that are consistent with safe and sound financial practices.

Transaction not subject to either 408(p) or 408(t) remain subject to 408(d) of the NHA and regulations adopted thereunder.[3] Section 408(d) contains a

[1] The Board expects to implement that authority by soliciting public comment in the near future on proposed amendments to Part 563 and 584 of its regulations.

[2] Conference Committee Report, H.R. 27, Competitive Equality Banking Act of 1987, H.R. Conf. Rep. No. 261, 100th Cong., 1st Sess., 138.

[3] 12 CFR 584.3.

list of transactions with affiliates that are strictly prohibited and a list of transactions with affiliates that are permitted with prior written approval of the Corporation. In addition, it has been the longstanding position of the Board's Office of General Counsel that the limitations and prohibitions contained in 12 CFR 563.41 and 563.43 (the "Conflicts rules") governing transactions between or involving an insured institution and its affiliated persons are applicable to all insured institutions, including an insured institution that is a subsidiary of a savings and loan holding company.[4] Transactions with affiliates involving holding company subsidiary institutions are also subject to regulation pursuant to the NHA, however, and the two sets of rules conflict in certain respects. For example, despite the language in section 408(d)(6) of the NHA, which provides that certain transactions shall be approved by the FSLIC unless the transaction would be detrimental to the insured institution's depositors or the FSLIC, the Conflicts Rules flatly prohibit some of these transactions.[5] That position has been based on the Board's findings, as expressed in the preamble to the Conflicts Rules "that certain types of transactions should be prohibited altogether based on the need to prevent conflicts of interest for the safety and soundness of the thrift industry."[6]

It appears clear that Congress intended new subsections 408(p) and 408(t), when applicable, exclusively to govern transactions between a subsidiary insured institution and its affiliates.[7] In addition to the new statutory provisions, the Conference Report directs the Board to review its safety and soundness regulations to, among other things, ensure that such regulations do not conflict with statutory provisions, such as section 408(d)(6) of the NHA, 12 U.S.C. 1730a(d)(6), which requires the approval of the FSLIC on a case-by-case basis of certain transactions between an insured institution and its affiliates.[8]

In light of these new statutory provisions and the directive of the Conference Report discussed above, the Board believes it would be inappropriate to continue to apply the Conflicts Rules to transactions between holding company subsidiary insured institutions and their affiliates. Accordingly, the Board is proposing to amend the Conflicts Rules to exclude transactions between holding company subsidiary insured institutions and their affiliates (other than natural persons that are controlling persons, directors or officers of the insured institution) from the coverage of those rules and expressly to provide that those transactions are exclusively subject to the prohibitions and limitations contained in section 408 of the NHA, as amended, and the Board's regulations (as currently existing or as subsequently amended) thereunder. The Board believes it is appropriate that natural person affiliates that are controlling shareholders directors or officers continue to be subject to the Conflict Rules in the same manner as other natural persons that are "affiliated persons" (as defined in 12 CFR 561.29). By so doing, all natural persons, as contrasted with entities, will be subject to equivalent treatment with respect to the Conflicts Rule.

The Board solicits comments on the proposed amendments from all interested parties. Pursuant to the rulemaking policies and procedures of 12 CFR 508.13, as supplemented by Board Res. No. 80-584, 45 FR 73135 (September 23, 1980), the Board is providing for a 45-day rather than a 60-day public comment period because of the need to put in place expeditiously regulations to implement the new statutory scheme in this area.

Initial Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, 5 U.S.C. 603, the Board is providing the following initial regulatory flexibility analysis.

1. *Reasons, objectives and legal basis underlying the proposed rule.* These elements are incorporated above in the **SUPPLEMENTARY INFORMATION** regarding the proposal.

2. *Small entities to which the proposed rule would apply.* The proposed rule would apply to all insured institutions.

3. *Impact of the proposed rule on small entities.* The proposed rule would allow smaller institutions greater certainty as to which set of transactions with affiliates rules would apply to them.

4. *Overlapping or conflicting federal rules.* There are no known rules that duplicate, overlap, or conflict with this proposal.

5. *Alternative to the proposed rule.* There are no alternatives that would be less burdensome than the proposal in addressing the concerns expressed in the **SUPPLEMENTARY INFORMATION** set forth above.

List of Subjects in 12 CFR Part 563

Bank deposit insurance, Investment, Reporting and recordkeeping requirements, Savings and loan associations.

Accordingly, the Board hereby proposes to amend Part 563, Subchapter D, Chapter V, Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

1. The authority citation for Part 563 continues to read as follows:

Authority: Sec. 1, 47 Stat. 725, as amended (12 U.S.C. 1421 *et seq.*); sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended (12 U.S.C. 1425a); sec. 5B, 47 Stat. 727, as added by sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425b); sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 401–407, 48 Stat. 1255–1260, as amended (12 U.S.C. 1724–1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); Sec. 1204, 101 Stat. 662 Stat. 662 (12 U.S.C. 3806); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp., p. 1071.

2. Amend § 563.41 by revising the heading of the section and paragraph (a) to read as follows:

§ 563.41 Restrictions on real and personal property transactions with affiliated persons.

(a) *Scope of section.* Section 408 of the National Housing Act, as amended (12 U.S.C. 1730a), and the Corporation's regulations thereunder, shall be controlling with respect to transactions between an insured institution

---

[4] *See*, e.g. Letter from Rosemary Stewart, Associate General Counsel to W. Michael Herrick, Esq. (June 23, 1982); Letter from Thomas Vartanian, General Counsel to Richard J. Perry, Jr., Esq. (April 20, 1983); and Letter from Harry Quillian, Acting General Counsel to William B. O'Connell (June 2, 1986).

[5] This overlapping of regulatory provisions has been particularly troublesome regarding the purchase of mortgages and participation interests in mortgages by a subsidiary institution from one of its affiliates. Those transactions have been prohibited under 12 CFR 563.43(c)(2) even though they would be approvable under 408(d)(6) of the NHA and 12 CFR 584.3(a)(7) thereunder.

[6] 41 FR 35819 (1976).

[7] Such intent is clearly indicated, for example, in the language of subsection 408(p) providing that transactions to which the subsection applies "* * * shall be subject to the limitations and prohibitions specified in section 23A and 23B of the Federal Reserve Act *in the same manner and to the same extent as if such insured institution were a member bank.*" (emphasis added). If transactions subject to 408(p) were subject to regulatory limitations and prohibitions in addition to those in 23A and 23B of the FRA, then insured institutions would not be subject to 23A and 23B of the FRA in the same manner and to the same extent as if such insured institutions were members banks.

[8] Conference Committee Report, H.R. 27, Competitive Equality Banking Act of 1987, H.R. Cong. Rep. No. 261, 100th Cong., 1st Sess., 138, 144.

subsidiary of a savings and loan holding company and such insured institution's affiliates (other than natural persons that are controlling shareholders) as such term is defined in § 583.15 of this chapter.

* * * * *

3. Amend § 563.43 by revising paragraph (a) to read as follows:

§ 563.43 Restrictions on loans and other investments involving affiliated persons.

(a) *Scope of section.* Section 408 of the National Housing Act, as amended (12 U.S.C. 1730a), and the Corporation's regulations thereunder, shall be controlling with respect to transactions between an insured institution subsidiary of a savings and loan holding company and such insured institution's affiliates (other than natural persons that are controlling shareholders) as such term is defined in § 583.15 of this chapter.

* * * * *

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 88-9389 Filed 4-27-88; 8:45 am]

BILLING CODE 6720-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Revision

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The Small Business Administration (SBA) is proposing to revise its regulations defining small business for Government procurement as it concerns nonmanufacturers. This rule is proposed to avert the consequences of a recent decision concerning nonmanufacturers issued by SBA's Office of Hearings and Appeals. Under that decision, large businesses could qualify as eligible to submit offers on and receive awards of small business set-aside contracts for supplies as nonmanufacturers, provided that they supply the product of a small business manufacturer or producer. This revision would make explicit the requirement that a nonmanufacturer offeror also be a small business and establishes a size standard of 500 employees for such nonmanufacturers.

DATE: Written comments must be submitted on or before May 13, 1988.

ADDRESS: Submit written comments to Gary Jackson, Director, Size Standards Staff, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Gene VanArsdale, Director, Office of Procurement Policy and Liaison, (202) 653-6588.

SUPPLEMENTARY INFORMATION: SBA's current size regulations for Government procurement distinguish between manufacturers and "nonmanufacturers." A "nonmanufacturer" is a company that does not manufacture the item being procured under a particular contract. Such a company may be considered small if it proposes to supply "the product of a small business manufacturer or producer, which end product must be manufactured or produced in the United States." 13 CFR 121.5(b)(2)(i). This language was narrowly construed by the Office of Hearings and Appeals in a recent decision in which that Office held that the nonmanufacturer need not itself comply with any size standard so long as the actual manufacturer or producer of the product is a small business under the applicable manufacturing size standard. *See Size Appeal of Louisiana Filling, Inc.*, Appeal No. 2796 (December 14, 1987). In that decision, the Office of Hearings and Appeals held that "the regulations as worded in the current Code of Federal Regulations do not impose any restrictions on the number of employees or the annual receipts of nonmanufacturers [provided that they are] supplying end items produced in the United States by small businesses."

The Agency believes that the decision in *Louisiana Filling*, construing its present regulations governing the size of nonmanufacturers, reveals an unintended variance from the letter and spirit of the Small Business Act, its historic interpretation and the overall scheme of the size regulations. For these reasons, outlined in greater detail below, the Agency is proposing to revise its regulations to make explicit the requirement that nonmanufacturer offerors must themselves be small and is proposing to establish an explicit numerical size standard for nonmanufacturers based on number of employees.

It has long been the Agency's official position that it is empowered to assist through its various programs *only* small business concerns. It has taken that position in litigation. The court in *Systems and Applied Sciences Corp. v. Sanders*, 544 F.Supp. 576, 581 (D.C. Dist. 1982) noted: "[i]t is beyond doubt, and SBA admits, that small business status under the Act is *an absolute prerequisite* to participation in any of its programs * * *." (Emphasis supplied.) This position is solidly grounded on the language of the Small Business Act itself.

Section 2(a) of the Small Business Act makes clear that the Agency's mission is to assist *small* business. 15 U.S.C. 631(a). This statutory purpose is accomplished by the small business set-aside program authorized by section 15(a) of the Act. 15 U.S.C. 644(a). Under this authority, contracts may be let only to business concerns that qualify as small under the Act, specifically, under section 3(a)(1) of the Act, 15 U.S.C. 632(a)(1), and the Agency's implementing regulations in Part 121 of title 13, Code of Federal Regulations.

The consequence of the *Louisiana Filling* decision is that large businesses, so long as they proposed to supply the product of a small business manufacturer, may be considered eligible to submit offers on, and receive awards under, small business supply contract set-asides. Section 15(a) of the Small Business Act, however, limits the program to participation by small business concerns. To permit the *Louisiana Filling* decision to stand, then, would cause a fundamental departure from the primary thrust of the Small Business Act by permitting other than small businesses to derive a direct benefit from a program established for the exclusive benefit of small business concerns.

The *Louisiana Filling* decision both creates conflicts within the current regulatory scheme, and conflicts with the Agency's historical regulatory approach to establishing size standards for nonmanufacturers.

The conflicts or inconsistencies caused by this decision include at least the following three. The first inconsistency involves the size regulation for kit assemblers found at 13 CFR 121.5(b)(2)(ii). That regulation requires that an assembler meet "the size qualifications of a small nonmanufacturer for the procurement * * *." The regulation becomes internally inconsistent under the *Louisiana Filling* decision because the kit assembler could never satisfy the requirement that it qualify as a nonmanufacturer small business, and still take advantage of another regulatory provision which allows it to obtain up to 50 percent of the kit components from large manufacturers. Under *Louisiana Filling*, it would be prohibited from doing so by its holding that a nonmanufacturer must supply only products manufactured by small businesses. Secondly, 13 CFR 121.5(b)(2)(iv) presently requires that a nonmanufacturer seeking a Certificate

of Competence (COC) on an *unrestricted* procurement must comply with a size standard—that of the applicable Wholesale Trade industry. It is inconsistent to require a nonmanufacturer bidding on a unrestricted procurement to meet a size standard but not require that a nonmanufacturer meet a size standard if it bids on a set-aside procurement. A third inconsistency is that the regulation at 13 CFR 121.5(b)(2)(iii) presently exempts concerns bidding on small purchase actions as nonmanufacturers from the requirement that they supply the product of a small manufacturer. Consequently, given the *Louisiana Filling* interpretation of the nonmanufacturer rule, neither the nonmanufacturer offeror nor the nonmanufacturer's supplier would need to be a small concern in a small purchase procurement, and a program intended for the exclusive benefit of small businesses would be completely open to participation by other than small concerns.

The Agency has long required that nonmanufacturers, as well as their manufacturer suppliers, be small businesses under the Agency's regulations. In fact, the requirement that both the nonmanufacturer and the manufacturer's supplier(s) both be small businesses under an established size standard was first imposed in 1957. *See* 22 FR 2759. For 27 years, from 1957 through the effective date of a 1984 revision to the size regulations, nonmanufacturers were explicitly defined as concerns (i) having not more that 500 employees, and (ii) who proposed to supply the product of a small business manufacturer producer. *See, e.g.*, 13 CFR 121.3–8(c)(1)–(2) (1984).

The regulatory language interpreted in the *Louisiana Filling* case arises out of the 1984 revision to Part 121. Review of the rulemaking record of that revision suggests that the final rule inadvertently omitted language within the proposed rule which would have required nonmanufacturers to satisfy the applicable Wholesale Trade size standard. The problem created by this omission was further exacerbated by the Agency's overall effort at that time to remove from the regulation any size standards not related to particular Standard Industrial Classification (SIC) codes. The catch-all size standard of 500 employees for industries not otherwise classified which had long been in Agency regulations was deleted in this effort. As a result, no size standard was *explicitly* left in force as to nonmanufacturers themselves. Nonetheless, the practice of SBA and the Federal procurement community generally was to require that nonmanufacturer offerors on small business set-aside procurements meet a 500 employee size standard as that of the wholesalers and that of most manufacturers (as well as provide the product of a small manufacturer). The size standard for all wholesale industries remained 50 employees until 1986.

On August 11, 1986, the Agency's revision of the size standard for Wholesale Trade become effective, lowering the size standard to 100 employees. This change was made without an appreciation of its impact on manufacturer offerors. It has now become apparent to the Agency that an impact is being experienced. Federal procuring agencies that had been applying the 500 employee Wholesale Trade size standard to nonmanufacturers before 1986 have begun to apply the new size standard, 100 employees, to nonmanufacturers. This has had the effect of excluding concerns from bidding as nonmanufacturers that had done so for many years under the 500 employee size standard.

The Agency is thus confronted with two problems: (1) To restore a specific size standard to its regulations to apply to nonmanufacturers who submit offers on small business set-aside procurements, thereby obviating the undesirable effects of *Louisiana Filling*, described above, and (2) to determine what that size standard should be. The Agency's solution is to propose the following changes to the nonmanufacturer rule: (1) Explicitly require that nonmanufacturers bidding on small business set-aside procurements themselves be small; (2) reinstitute the 500 employee size standard for nonmanufacturers; and (3) conform the regulation pertaining to COC applicants in unrestricted procurements by deleting the reference to the Wholesale Trade size standard. (There is no need to change the kit assembler or small purchase nonmanufacturer regulations, as they already conform to these changes.)

The Agency proposes to return to the 500 employee size standard in order to recognize and accommodate current procurement and industry practices. It is a relatively common practice for manufacturers to bid on supply contracts where they do not propose to produce the particular product to be supplied with their own labor force, notwithstanding that they are capable of doing so. Such manufacturers must qualify as small businesses under the nonmanufacturer rule. The overwhelming majority of the size standards for manufacturers is 500 employees. Therefore, in an effort to minimize the adverse consequences upon such concerns, the Agency proposes to adopt the predominant size standard for manufacturers as the size standard for nonmanufacturers who desire to bid on Federal supply contracts. This 500 employee size standard would impose no hardship on wholesalers who qualify as regular dealers also desiring to make offers on small business set-asides, since it would be a higher standard than the 100 employee size standard now applicable to wholesalers for other small business program purposes. We invite public comment on the appropriateness of this size standard.

The Agency is proposing no change to the 100 employee size standard for Wholesale Trade concerns for other program purposes because it continues to believe that the rationale expressed in 1986 is valid, and that the 100 employee size standard is generally appropriate for that industry group. That being the case, the Wholesale Trade size standard, being less than 500 employees, cannot be applied to nonmanufacturers bidding on small business set-asides without disruption of current Government procurement and industry practices as discussed above. This departure from the Wholesale Trade size standard also has the advantage of recognizing that wholesalers sometimes do not qualify as regular dealers under the Walsh-Healey Act and in those cases, are ineligible for Government supply contracts. Recognizing this fact, it would be inappropriate to impose the wholesaler size standard upon offering nonmanufacturers which must qualify under Walsh-Healey as regular dealers to be eligible for such awards. Therefore, the proposed rule would re-establish a separate 500 employee size standard for nonmanufacturers for purposes of Government procurement.

Compliance With Regulatory Flexibility Act, Executive Order 12291 and the Paperwork Reduction Act

SBA certifies that this proposed rule will not 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.* As a result of the Office of Hearings and Appeals (OHA) decision discussed above, a firm of any size can bid as a nonmanufacturer on a procurement for a manufactured item which is set aside for small business

when that firm supplies an item it did not manufacture; providing only that the ultimate manufacturer is a small business. However, prior to the OHA decision, Federal agencies have been interpreting SBA's size regulations to require either that the manufacturing size standard be applied to nonmanufacturers or, that the wholesale trade size standard be applied. Consequently, SBA is aware of only one firm of over 500 employees that has received a small business set-aside contract as a nonmanufacturer. Under this rule, if adopted in final form, firms with over 500 employees would be ineligible as nonmanufacturers to bid on small business set asides. This action will maintain the status quo of excluding from participation in the set-aside contract program nonmanufacturing firms with over 500 employees.

SBA has determined that this regulation is not a major rule as defined by Executive Order 12291 because it is not expected to have an annual economic effect of $100 million or more. In Fiscal year 1986, $6.4 billion of Federal procurements were provided by nonmanufacturing. Of this total, only $346.5 million, or about 5.4 percent was provided through small business set-aside procedures. Three hundred and sixty-six nonmanufacturing firms are above 500 employees and account for 24.2 percent of nonmanufacturing sales. If these firms actively participate in the set-aside market, it is estimated that they would likely obtain set-aside contracts equal to their overall market share of 24.2 percent. This would equal $88.9 million of set-aside contracts (24.2 percent of $346.5 million equals $88.9 million).

SBA notes also that this rule does not qualify as a major rule under the other two criteria of Executive Order 12291. The rule is not likely to result in a major increase in costs or prices, nor would it be likely to have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based businesses to compete with foreign-based businesses in domestic or export markets.

The rule would define the maximum size a firm may be to receive SBA's assistance and to bid on contracts set aside by all Federal agencies for small firms. The legal bases for this proposed rule are sections 3(a) and 5(b)(6) of the Small Business Act (15 U.S.C. 632(a) and (634(b)(6). There are no Federal rules which would duplicate, overlap or conflict with this final rule.

SBA certifies that this regulation contains no reporting or recordkeeping requirements which are subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 13 CFR Part 121

Small businesses, Size standards.

PART 121—[AMENDED]

Accordingly, Part 121 of 13 CFR is proposed to be amended as follows:

PART 121—[AMENDED]

1. The authority citation for Part 121 continues to read as follows:

Authority: Secs. 3(a) and 5(b)(6), Small Business Act, (15 U.S.C. 632(a) and 634(b)(6)).

2. Section 121.5(b)(2) introductory text (iv) and (b)(2)(iv) are revised to read as follows:

§ 121.5 Small business for Government procurement.

* * * * *

(b)(2) Any concern which submits a bid or offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is deemed to be a small business when *it has no more than 500 employees, and:*

* * * * *

(iv) For the purpose of receiving a Certificate of Competency, on an unrestricted procurement, a small business nonmanufacturer may furnish any domestically produced or manufactured product.

* * * * *

Date: April 20, 1988.

James Abdnor,

Administrator.

[FR Doc. 88-9398 Filed 4-27-88; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-55-87]

Corporate Alternative Minimum Tax Book Income Adjustment of Foreign Corporations; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking; cross reference.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing temporary regulations relating to the corporate alternative minimum tax adjustment for the book income of foreign corporations. The text of the temporary regulations also serves as the text for this Notice of Proposed Rulemaking.

DATE: Written comments and requests for a public hearing must be delivered or mailed June 27, 1988.

ADDRESS: Send comments and request for a public hearing to Commissioner of Internal Revenue, Attention: CC:LR:T (LR-55-87), Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Timothy J. McKenna of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, Attention: CC:LR:T (LR-55-87). Telephone 202-566-3287 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** amend Part 1 of Title 26 of the Code of Federal Regulations. The temporary regulations are designated by a "T" following their section citation. The final regulations which are proposed to be based on the temporary regulations would amend Part 1 of Title 26 of the Code of Federal Regulations. The regulations provide rules relating to the book income adjustment to the corporate alternative minimum tax under section 56(c)(1) and 56(f) of the Internal Revenue Code of 1986 (Code) as added by section 701 of the Tax Reform Act of 1986 (Pub. L. 99-514; 100 Stat. 2320).

For the text of the temporary regulations see T.D. 8197 published in the Rules and Regulations portions of this issue of the **Federal Register**. The preamble to the temporary regulations provides a discussion of the rules.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking that solicits public comment, the Internal Revenue Service has concluded that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Margaret M. O'Connor of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.01–1.58–8

Income taxes, Tax liability, Tax rates, Credits.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

[FR Doc. 88–9435 Filed 4–27–88; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD8–88–05]

Drawbridge Operation Regulations; Atchafalaya River, LA

AGENCY: Coast guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Kansas City Southern Railway Company, the Coast Guard is considering a change to the regulation governing the operation of the swingspan railroad bridge over the Atachafalaya River, mile 133.1 at Simmesport, Louisiana, to require that at least three hours advance notice be given for opening the draw. This action will relieve the bridge owner of the burden of having a person constantly available at the bridge, and will still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before June 13, 1988.

ADDRESS: Comments should be mailed to Commander (ob), Eighth Coast Guard District, 500 Camp Street, New Orleans, Louisiana 70130–3396. The comments and other materials referenced in this notice will be available for inspection and copying in Room 1115 at this address. Normal office hours are between 8:00 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: John Wachter, Bridge Administration Branch, at the address given above, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Eighth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. This proposed regulation may be changed in the light of comments received.

Drafting Information

The drafters of this notice are John Wachter, project officer, and Lieutenant Commander James Vallone, project attorney.

Discussion of Proposed Regulation

Vertical clearance of the bridge in the closed position is 6.0 feet above mean high water and 56 feet above mean low water. Navigation through the bridge consists of tugs with tows and outboard motor-powered pleasure boats.

This proposal is being made because of infrequent requests to open the draw. A review of the bridgetender's log of openings for the past five years shows that the draw has been opened for the passage of vessels an average of 1.85 times per week. There was no pattern to the bridge openings to indicate that vessel traffic was significantly heavier or lighter during any particular month or season of the year, with the exception of low-water period in August and September, when virtually all vessels can pass under the bridge. Outside the low water period, the draw opened for the passage of vessels an average of 2.2 times per week.

Three hours advance notice for opening of the draw would be made by placing a collect call at any time to the Kansas City Southern Railway Company representative in Simmesport, Louisiana. To provide for leeway in the appointed vessel arrival time, the Kansas City Southern Railway Company would have a tender at the bridge at least one-hour hour before the appointed opening time, and the tender would remain at least one-half hour after the appointed time for a late arriving vessel.

Economic Assessment and Certification

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that the number of vessels passing requiring opening of the bridge averages only 1.85 per week. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entites.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

§ 117.422 [Redesignated from 117.423]

2. Section 117.423 (*Amite River*) is redesignated as § 117.422 and a new § 117.423 is added to read as follows:

§ 117.423 Atchafalaya River

The draw of the Kansas city Southern Railway bridge, mile 133.1 (mile 5.0 on N.O.S. Chart) above the mouth of the waterway, at Simmesport, shall open on signal if at least three hours advance notice is given.

Dated: April 20, 1988.

J.D. Sipes,

Captain, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 88–9425 Filed 4–27–88; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 228

Disposal of Mineral Materials

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: Existing regulations at 36 CFR Part 228, Subpart C, authorize the disposal of mineral materials. These materials include petrified wood and common varieties of sand, gravel, stone, pumice, pumicite, cinders, clay and other similar materials. This proposed rulemaking specifies which mineral materials are common varieties subject to disposal by the Secretary of Agriculture under the Materials Act of 1947.

DATE: Comments must be received by June 27, 1988.

ADDRESSES: Send written comments to F. Dale Robertson, Chief (2850), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090. The public may inspect comments received on this proposed rule in the office of the Director, Minerals and Geology Staff, Room 606, 1621 North Kent Street, Arlington, VA, during regular business hours (8:00 a.m. to 4:00 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Steve Marshall, Minerals and Geology Staff, (703) 235–3142.

SUPPLEMENTARY INFORMATION: The Materials Act of July 31, 1947 (61 Stat. 681), as amended by the Act of July 23, 1955 (69 Stat. 367), 30 U.S.C. 601 *et seq.*, authorizes the Secretary of Agriculture, under such rules and regulations as he may prescribe, to dispose of mineral materials which include common varieties of sand, stone, gravel, pumice, pumicite, cinder and clay.

Over a period of years, several hundred cases in litigation have addressed which mineral materials are to be considered common; however, the regulations in 36 CFR Part 228, Subpart C, which cover the disposal of mineral materials, do not reflect these results. This lack of more specific regulation makes it difficult for prospective purchasers of mineral materials to know whether a particular deposit is available for purchase. Lacking the information, prospective purchasers have frequently located mining claims under the Mining Laws of the United States, creating title and economics problems, unnecessary litigation, and delays in completing sales.

Principal objectives of the Act of July 23, 1955, were to increase multiple uses of public lands and National Forests, and to prevent the fraudulent location of mining claims. This proposed rule is designed to provide additional criteria on the sale of mineral materials in view of the judicial interpretations of the Materials Act. Six categories of characteristics or users are established. In contrast to them, the rule also includes six categories of materials considered, on the basis of the Act and judicial construction, to be uncommon varieties which are locatable under the mining laws.

The proposed categories and representatives uses within each category are as follows:

1. *Common Varieties*

A. *Agricultural Supply and Animal Husbandry Materials.* This category includes, but is not limited to, materials used as for: Soil conditioners or amendments, fertilizers or other direct applications to the soil such as carbonate rocks, animal feed supplements, and other animal care products.

B. *Building Materials.* Except for materials identified as *Uncommon Varieties,* this category includes, but is not limited to, materials such as: flagstone, ashlar, rubble, mortar, brick, title, and terrazzo used for nonstructural components in floors, walls, roofs, fireplaces, and similar building construction uses.

C. *Cleaning and Abrasive Materials.* This category includes, but is no limited to, materials used as or for: filters, absorbents, filing scouring, polishing, sanding, and sandblasting.

D. *Construction Materials.* This category includes, but is not limited to, materials used as or for: fill, borrow, rip-rap, ballast, road base or surfacing, crushed rock, concrete aggregate, and clay sealants.

E. *Decorative and Ornamental Arts Materials.* This category includes, but is not limited to, materials used as or for: sculpture, lapidary, furniture, and natural art objects. This category does not include precious gems.

F. *Landscaping Materials.* This category includes, but is not limited to: chips, granules, sand, pebbles, scoria, cinders, cobbles, boulders, or slabs used for retaining walls, walkways, patios, yards, gardens, and the like.

2. *Uncommon Varieties*

The following types of mineral materials are considered to be uncommon and not subject to subject to disposal under this subpart:

A. Limestone suitable and used, without substantial admixtures, for cement manufacture, metallurgy, production of quicklime, sugar refining, whiting, fillers, paper manufacture, and desulfurization of stack gases;

B. Silica suitable and used for glass manufacture, production of metallic silicon, flux, and rock wool;

C. Alumino-silicates or clays suitable and used for production of aluminum, ceramics, drilling mud, taconite binder, foundry castings and other specific uses for which there are no substitutes;

D. Gypsum suitable and used for wallboard, plaster, or cement;

E. Block pumice which occurs in nature in pieces having one dimension of two inches or more; and

F. Stone recognized through marketing factors for its special and distinct properties of strength and durability making it suitable for structural support and used for that purpose.

These categories of common and uncommon varieties would be codified in paragraphs (c) and (d) of 36 CFR 228.41 which addresses the scope of the common variety rules. The definition of common varieties at § 228.42 would be removed.

Based on both past experience and environmental analysis, this proposed rule will have no significant effect on the human environment, individually or cumulatively. Therefore, it is categorically excluded from documentation in an environmental assessment or an environmental impact statement (40 CFR 1508.4).

This rule has been reviewed under Executive Order 12291 and USDA procedures and it has been determined that this rule is not a major rule. The rule would not have an economic effect of $100 million or more or affect U.S. competion in foreign markets. Additionally, it will not have a significant ecomomic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The proposed rulemaking contains no information collection requirements needing the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et. seq.*

List of Subjects in 36 CFR Part 228

Administrative practice and procedure, Environmental protection, Mines, National forests, Public lands—

mineral resources, Rights of way, Reporting and recordkeeping requirements, Surety bonds, Wilderness areas.

Therefore, for the reasons set forth in the preamble, it is proposed to amend Subpart C of Part 228 of Title 36 of the Code of Federal Regulations as follows:

PART 228—MINERALS

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

Authority: 30 Stat. 35 and 36, as amended (16 U.S.C. 478, 551), 61 Stat. 681, as amended (30 U.S.C. 601), and 94 Stat. 2400.

Subpart C—Disposal of Mineral Materials

2. Amend § 228.41 by adding new paragraphs (c) and (d) to read as follows:

§ 228.41 Scope.

* * * * *

(c) *Materials to which this subpart applies.* This subpart applies to mineral materials which consist of petrified wood and common varieties of sand, gravel, stone, pumice, pumicite, cinders, clay, and other similar materials. Such common variety mineral materials include deposits which, although they have economic value, are used for agriculture, animal husbandry, building, cleaning and abrasion, construction, decorative and ornamental arts, landscaping, similar uses. Representative examples of these materials are:

(1) *Agricultural Supply and Animal Husbandry Materials.* This category includes, but is not limited to, materials used as or for: Soil conditioners or amendments, fertilizers or other direct applications to the soil, such as carbonate rocks, animal feed supplements, and other animal care products.

(2) *Building Materials.* Except for materials identified in § 228.41(d) of this subpart, this category includes, but is not limited to, materials such as: Flagstone, ashlar, rubble, mortar, brick, tile, and terrazzo used for nonstructural components in floors, walls, roofs, fireplaces, and similar building construction uses.

(3) *Cleaning and Abrasive Materials.* This category includes, but is not limited to, materials used as or for: Filters, absorbents, filing, scouring, polishing, sanding, and sandblasting.

(4) *Construction Materials.* This category includes, but is not limited to, materials used as or for: Fill, borrow, rip-rap, ballast, road base or surfacing, crushed rock, concrete aggregate, and clay sealants.

(5) *Decorative and Ornamental Arts Materials.* This category includes, but is not limited to, materials used as or for: Sculpture, lapidary, furniture, and natural art objects. This category does not include precious gems.

(6) *Landscaping Materials.* This category includes, but is not limited to: Chips, granules, scoria, cinders, sand, pebbles, cobbles, boulders or slabs used for retaining walls, walkways, patios, yards, gardens and the like.

(d) *Materials not covered by this subpart.* Common variety mineral materials do not include any material used in manufacturing, industrial processing, or chemical operations for which no other mineral material can be substituted due to properties giving it distinct and special value; nor do they include block pumice which in nature occurs in pieces having one dimension of two inches or more. Disposal of these latter varieties of mineral materials is subject to the terms of the General Mining Law of 1872, as amended (30 U.S.C. 22 *et seq.*), on those portions of the National Forest System where these laws apply. They include:

(1) Limestone suitable and used, without substantial admixture, for cement manufacture, metallurgy, production of quicklime, sugar refining, whiting, fillers, paper manufacture, and desulfurization of stack gases.

(2) Silica suitable and used for glass manufacture, production of metallic silicon, flux, and rock wool.

(3) Alumino-silicates or clays suitable and used for production of aluminum, ceramics, drilling mud, taconite binder, foundary castings and other specific uses for which there are no substitutes.

(4) Gypsum suitable and used for wallboard, plaster, or cement.

(5) Block pumice which occurs in nature in pieces having one dimension of two inches or more.

(6) Stone recognized through marketing factors for its special and distinct properties of strength and durability making it suitable for structural support and used for that purpose.

§ 228.42 Definitions.

3. Amend § 228.42 by removing the term and definition of "mineral materials."

Date: April 7, 1988.

George M. Leonard,

Associate Chief.

[FR Doc. 88-9364 Filed 4-27-88; 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 8E3608/P449; FRL-3371-7]

Pesticide Tolerance for 2-(2-Chlorophenyl) Methyl-4,4-Dimethyl-3-Isoxazolidinone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for residues of the herbicide 2-(2-chlorophenyl)methyl-4,4-dimethyl-3-isoxazolidinone in or on the raw agricultural commodity succulent peas. The proposed regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments, identified by the document control number [PP 8E3608/P449], must be received on or before May 13, 1988.

ADDRESS: By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Rm. 716C, CM #2, 1921 Jefferson Davis

Highway, Arlington, VA 22202, (703)-557-2310.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 8E3608 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the Agricultural Experiment Stations of Georgia, Idaho, Illinois, Oklahoma, Oregon, and Washington.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the herbicide 2-(2-chlorophenyl)methyl-4,4-dimethyl-3-isoxazolidinone, in or on the raw agricultural commodity succulent peas at 0.1 part per million (ppm). The petition was later amended to propose a tolerance for succulent peas at 0.05 ppm.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include:

1. A rat teratology study with a maternal no-observed-effect level (NOEL) of 100 milligrams (mg)/kilogram (kg)/day, a fetotoxic NOEL of 100 mg/kg/day with no teratogenic effects at the highest dose level tested (600 mg/kg/day).

2. A rabbit teratology study with a teratogenic NOEL of 700 mg/kg/day, a maternal NOEL of 240 mg/kg/day, and a fetoxicity NOEL of 240 mg/kg/day.

3. A 1-year dog feeding study with a NOEL of 12.5 mg/kg/day (500 ppm) tested at dose levels of 0, 100, 500, 2,500, and 5,000 ppm.

4. A 2-year rat feeding study with a NOEL of 4.3 mg/kg/day (100 ppm) for systemic effects and negative for oncogenic effects under the conditions of the study at all dose levels tested (20, 100, 500, 1,000 and 2,000 ppm).

5. A 2-year mouse feeding study with a NOEL of 15 mg/kg/day (100 ppm) for systemic effects and negative for oncogenic effects under the conditions of the study at all dose levels tested (20, 100, 500, 1,000 and 2,000 ppm).

6. Mutagenic studies: including an unscheduled DNA synthesis test, negative for mutagenicity; reverse mutation tests (two studies) (*Salmonella*) both negative with/without activation; a point mutation test (CHO/HGPT), weakly positive without activation; and an *in vivo* cytogenetic (chromosomal aberrations) test, negative for mutagenicity.

The acceptable daily intake (ADI), based on the 2-year rat feeding study (NOEL of 4.30 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.043 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 2.6 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.000026 mg/kg/day. Published tolerances utilize 0.04 percent of the ADI; the current action will utilize an additional 0.02 percent.

The nature of the residues is adequately understood and an adequate analytical method, gas chromatography, is available for enforcement purposes but has not yet been published in the Pesticide Analytical Manual, Volume II (PAM-II). In the interim, the analytical method is available from: William Grosse, Chief, Information Services Branch (TS-767C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington DC 20460. Office location and telephone number: Rm. 223, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2613).

There is no reasonable expectation of finite residues in eggs, milk, meat, fat, or meat byproducts from the proposed use. There are currently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.425 would protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: April 21, 1988.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.425 is amended by adding and alphabetically inserting the raw agricultural commodity succulent peas, to read as follows:

§ 180.425 2-(2-Chlorophenyl)methyl-4,4-dimethyl-3-isoxazolidinone; tolerances for residues.

* * * * *

Commodities	Parts per million
Peas (succulent)	0.05

* * * * *

[FR Doc. 88-9404 Filed 4-27-88; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 180

[OPP-300187; FRL-3371-5]

Definitions and Interpretations; Technical Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that 40 CFR 180.1(h) be amended by adding an entry for blackberries in the commodity definitions and by revising the existing commodity definition for caneberries. This proposed amendment, which will define the commodity terms for tolerance purposes, was submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments, identified by the document control number [OPP-300187], must be received on or before May 31, 1988.

ADDRESS: By mail, submit written comments to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 246, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Hoyt Jamerson, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716H, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-2310.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted this request to EPA on behalf of Dr. Robert H. Kupelian, National Director, and the IR-4 Technical Committee.

IR-4 requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose that 40 CFR 180.1(h) be amended by adding "blackberries" to the general category of commodities listed in column A and defining that commodity as "*Rubus eubatus* (including dewberries, lowberries, boysenberries, marionberries, olallieberries, Oregon evergreen berries, coryberries, Himalayaberries, Lucretiaberries, bingleberries, mammoth blackberries, phenomenalberries, rossberries, Lavacaberries, nectarberries, Shawnee blackberries, Cheyenne blackberries, Cherokee blackberries, hullberries, Chesterberries, black satin berries, Dirksen thornless berries, darrowberries, ravenberries, rangerberries, and varieties and/or hybrids of these)" by inserting these corresponding commodities in the specific commodities listing in column B. The IR-4 requested this amendment in order to more specifically define the commodity term "blackberries."

As a result of the definition for blackberries, the specific raw agricultural commodities listing corresponding to the general commodity "caneberries" will be amended to make it consistent with the definition for blackberries. Blackberries, dewberries and boysenberries, which are listed in column B of 40 CFR 180.1(h) (along with loganberries, raspberries and youngberries) as specific raw agricultural commodities of the general commodity "caneberries," will be replaced by the commodity term "*Rubus* spp." (including blackberries). These revisions will expand the tolerances and exemptions established for residues of pesticide chemicals in or on the general category "blackberries" to include the specific raw agricultural commodities as listed. The Agency concludes that tolerances established for the general category commodities "caneberries" and "blackberries" should be adequate to cover pesticide residues on the corresponding specific commodities based on the botanical relationship of the commodities and the similarity of the pest problems and pesticide application methods.

Based on the information considered by the Agency, it is concluded that the regulation established by amending 40 CFR Part 180 would protect the public health. Therefore, it is proposed that 40 CFR 180.1(h) be amended as set forth below.

Interested persons are invited to submit written comments on the proposed amendment. Comments must bear a notation indicating the document control number, [OPP-300187]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the FEDERAL REGISTER of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: April 20, 1988.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.1(h) is amended by revising the definition for caneberries and by adding a definition for blackberries, to read as follows:

§ 180.1 Definitions and interpretations.

* * * * *

(h) * * *

A	B
* * * * *	
Blackberries ...	*Rubus eubatus* (including bingleberries, black satin berries, boysenberries, Cherokee blackberries, Chesterberries, Cheyenne blackberries, coryberries, darrowberries, dewberries, Dirksen thornless berries, Himalayaberries, hullberries, Lavacaberries, lowberries, Lucretiaberries, mammoth blackberries, marionberries, nectarberries, olallieberries, Oregon evergreen berries, phenomenalberries, rangerberries, ravenberries, rossberries, Shawnee blackberries, and varieties and/or hybrids of these).
* * * * *	
Caneberries	*Rubus* spp. (including blackberries); *Rubus caesius* (youngberry); *Rubus loganobaccus* (loganberry); *Rubus occidentalis, idaeus,* and *strigosus* (red and black raspberries); and varieties and/or hybrids of these.
* * * * *	

[FR Doc. 88-9405 Filed 4-27-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88-147, RM-5952]

Radio Broadcasting Services, Los Banos, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Ethnic Radio, Incorporated, seeking the allotment of

Channel 295A to Los Banos, California, as that community's second local FM broadcast service.

DATES: Comments must be filed on or before June 9, 1988, and reply comments on or before June 24, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Michael H. Bader, Esq., Haley, Bader & Potts, 2000 M St. NW., Suite 600, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88-147, adopted March 10 and released April 20. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-9358 Filed 4-27-88; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 88-153, RM-6273]

Radio Broadcasting Services; Cartago and McFarland, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Caballero Spanish Media, Inc., proposing the substitution of FM Channel 275B1 for Channel 275A at McFarland, California, and modification of the permit for Station KXFM(FM) (Channel 275A), accordingly, to provide that community with its first wide coverage area FM service. Additionally, petitioner requests the substitution of Channel 273A for Channel 275A at Cartago, California, to accommodate its proposal.

DATES: Comments must be filed on or before June 10, 1988, and reply comments on or before June 27, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's consultant, as follows: Don Werlinger, The Broadcast Development Group, Inc., P.O. Box 1223, Lockhart, TX 78644.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88-153, adopted March 18, 1988, and released April 19, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-9356 Filed 4-27-88; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 88-154, RM-6200]

Radio Broadcasting Services; Grifton, NC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by MC Radio Partnership proposing the substitution of Channel 258C2 for Channel 257A at Grifton, North Carolina, and the modification of its permit to specify the higher powered channel. Channel 258C2 can be allocated to Grifton in compliance with the Commission's minimum distance separation requirements with a site restriction of 26.0 kilometers (16.2 miles) southeast to avoid a shortspacing to Station WMAG, Channel 258C, High Point, North Carolina, and to Channel 258A at Emporia, Virginia, which is unoccupied and unapplied for. In accordance with § 1.420(g) of the Commission's Rules, competing expressions of interest in use of Channel 258C2 at Grifton will not be accepted.

DATES: Comments must be filed on or before June 10, 1988, and reply comments on or before June 27, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: David Oxenford, Esq., Fisher, Wayland, Cooper & Leader, 1255 23rd Street NW., Suite 800, Washington, DC 20037 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88-154, adopted March 18, 1988, and released April 19, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International

Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88–9357 Filed 4–27–88; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 88–148, RM–6033; RM–6101]

Radio Broadcasting Services; Ariton, AL and Bonifay, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document seeks comments on two mutually-exclusive petitions for rule making in the states of Alabama and Florida. The first, filed on behalf of Patsy Nance Marsh and Rickey Earl Nance, seeks the allotment of Channel 249A to Ariton, Alabama, as that community's first local service. The second petition, filed on behalf of Mary Lake Communications, Inc., licensee of Station WTBB(FM) (Channel 249A), Bonifay, Florida, seeks the substitution of Channel 249C1 for Channel 249A and modification of its license accordingly. The Ariton proponent is required to provide additional information in an effort to establish that such place is a *bona fide* "community" for allotment purposes.

DATES: Comments must be filed on or before June 10, 1988, and reply comments on or before June 27, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners' consultants, as follows: *Ariton, AL*: Paul Reynolds, Amerimedia, 415 N. College St., Greenville, AL 36037; *Bonifay, FL*: C.F. Ellis, 1103 La Nouvelle Rd., Lafayette, LA 70508.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88–148 adopted March 4, 1988, and released April 19, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88–9361 Filed 4–27–88; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket FE–87–02; Notice 1]

Passenger Automobile Average Fuel Economy Standards; Denial of Petitions for Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petitions for rulemaking.

SUMMARY: This notice denies petitions for rulemaking submitted by Mercedes-Benz of North America and the General Motors Corporation. Mercedes asked the agency to retroactively reduce the model year 1984 and 1985 corporate average fuel economy (CAFE) standards for passenger automobiles to 26.0 miles per gallon or below. General Motors asked the agency to retroactively reduce the model year 1985 standard to 26.0 miles per gallon or below. The model year 1984 standard was set by the agency; the model year 1985 standard, by Congress in the CAFE statute. The agency is denying both petitions for the reasons set forth in this notice.

FOR FURTHER INFORMATION CONTACT: Barry Felrice, Associate Administrator for Rulemaking, National Highway Traffic Safety Administration, Room 5401, 400 Seventh Street SW., Washington, DC 20590, (202) 366–1810.

SUPPLEMENTARY INFORMATION:

Background

Title V of the Motor Vehicle Information and Cost Savings Act (Cost Savings Act), which is codified at 15 U.S.C. 2001–2012, provides for an automotive fuel economy regulatory program under which standards are established for the corporate average fuel economy (CAFE) of the annual production fleets of passenger automobiles and of light trucks. Title V was added in 1975 to the Cost Savings Act by the Energy Policy and Conservation Act (EPCA). Responsibility for the automotive fuel economy program was delegated by the Secretary of Transportation to the Administrator of NHTSA.

Title V provides that NHTSA has full discretion to decide to amend the standards. If NHTSA decides to issue an amendment, however, the agency is required to comply with the Administrative Procedure Act (APA) (5 U.S.C. 501 *et seq.*) and to set the amended standards at the "maximum feasible" level of average fuel economy. Section 502(e) of the Cost Savings Act requires NHTSA to consider four factors in determining maximum feasible average fuel economy: Technological feasibility; economic practicability; the effect of other Federal motor vehicle standards on fuel economy; and the need of the nation to conserve energy. Section 502(c) expressly provides for establishing standards for separate classes of passenger automobiles produced by low volume manufacturers and exempted under that subsection from the generally applicable standards established under subsection (a).

Section 502(b) similarly provides for establishing standards for separate classes of light trucks. However, section 502 does not make any provision for creating separate classes of unexempted passenger automobiles and for establishing standards for them.

Section 502 specified CAFE standards for passenger automobiles of 18, 19 and 20 mpg for model years 1978, 1979, and 1980, respectively, and 27 5 mpg for model year 1985 and thereafter. The Secretary of Transportation was required to establish standards for model years 1981–84 by July 1, 1977. Section 502(a)(3) requires that the standards for each of those model years be set at a level which (1) is the maximum feasible average fuel economy level and (2) would result in steady progress toward meeting the standard for model year 1985. On June 30, 1977, NHTSA adopted CAFE standards for passenger automobiles for model years 1981–84 (42 FR 33534). These standards were 22 mpg for 1981, 24 mpg for 1982, 26 mpg for 1983, and 27 mpg for 1984.

Section 502(f)(1) provides that the model year 1981–84 standards may be amended, from time to time, as long as the amended standards are set at the maximum feasible level and at a level representing steady progress toward the model year 1985 standard. In 1979, General Motors and Ford did informally request that rulemaking be initiated to reduce the model year 1981–84 standards. NHTSA denied the request on the ground that there was no showing that the standards were infeasible, but invited petitions in the future if there were any inaccuracies in the agency's analysis of the requests or any new facts significant enough to warrant commencing rulemaking. (See "Report on Requests by General Motors and Ford to Reduce Fuel Economy Standards for MY 1981–84 Passenger Automobiles" June 1979, and the accompanying notice of availability, June 25, 1979; 44 FR 37104) General Motors and Ford did suggest in August 1986 in their comments on a supplemental NPRM on the reduction of the model year 1987–88 standards for passenger automobiles that the agency retroactively reduce the model year 1984 85 standards if it did not reduce the model year 1987–88 standards to 26.0 mpg. As noted above, the standards for model year 1987–88 were reduced to 26.0 mpg. No petition for rulemaking to reduce the model year 1984–85 standards was submitted until August 1987.

Section 502(a)(4) authorizes (but does not require) the agency to amend the standard of 27.5 mpg for model year 1985 or any subsequent model year if it finds that the maximum feasible fuel economy level is higher or lower than 27.5 mpg in that year and sets the standard at that level. The agency has not previously amended the statutory standard of 27.5 for model year 1985, and did affirm the feasibility of that standard on several occasions. (For example, see the preamble to the June 1977 final rule adopting the model year 1981–1984 standards, and the June 1979 report on requests by General Motors and Ford to reduce the model year 1981–84 standards.) In response to timely petitions, the agency did reduce the passenger automobile standards for model years 1986–88 from 27.5 mpg to 26.0 mpg (50 FR 40528, October 4, 1985, for model year 1986 and 51 FR 35594, October 6, 1986, for model years 1987–88). Also, in response to a timely petition, the agency did reduce the 1985 light truck CAFE standard. (October 22, 1984; 49 FR 41250) (But see, discussion later regarding the agency's conclusion that a petition to amend the 1984 light truck standards was untimely.)

Title V provides for civil penalties for violating a CAFE standard and credits for exceeding one, in the amount of $5 for each 0.1 mpg that a manufacturer's fleet is below (above, in the case of credits) the standard, multiplied by the number of automobiles in that fleet. The credits may be used to offset a shortfall that occurs when a manufacturer does not achieve in a model year the CAFE required by the standard for that year. Manufacturers may carry credits as far back as three model years before the year in which they are earned or as far forward as three model years after the year in which they are earned. (See sections 502(l), 507 and 508 of the Cost Savings Act.)

If information available to the agency indicates that a manufacturer's CAFE for a model year fell below the standard for that year, and the manufacturer does not have sufficient carry-forward credits to offset the shortfall, the agency is required by section 502(l)(1)(C)(iv) to notify the manufacturer of that fact and provide a reasonable period for the manufacturer to submit a plan for earning sufficient credits in the three following model years to offset that shortfall completely. If a carry-back plan is not submitted and approved, the agency is required by section 508 to commence a proceeding under that section to determine whether the manufacturer has violated section 507(a)(1), which makes it unlawful to fail to comply with a CAFE standard for passenger automobiles. If the agency makes that determination, on the record following opportunity for agency hearing, the agency assesses civil penalties according to the formula described above.

Finally, under section 508, penalties may be compromised, modified or remitted in only three circumstances: If necessary to prevent insolvency or bankruptcy of a manufacturer; if a manufacturer shows that the violation was the result of an act of God, strike, or fire; or if the Federal Trade Commission certifies (in response to a request by a manufacturer for relief) that a modification of the penalty is necessary to prevent a substantial lessening of competition.

The Petitions

Petitions for rulemaking to reduce the model year 1984–85 standards were submitted after the agency notified several manufacturers of apparent noncompliance with one or both of those standards.

Mercedes-Benz

On July 11, 1986, NHTSA notified Mercedes that it had not achieved the level of the model year 1984 standard, and that the agency planned to apply credits earned in model year 1981 toward Mercedes' shortfall. Mercedes was given 30 days in which to comment on this proposed action, and did not submit any comment. Since Mercedes had sufficient credits, it was in compliance and did not pay a civil penalty for 1984.

For model year 1985, Mercedes was furnished notice by NHTSA on May 4, 1987, that it did not achieve the level of the applicable standard, and that there appeared to be insufficient carry-forward credits available to offset the entire shortfall. Mercedes was provided an opportunity to file a carry-back plan demonstrating that it would earn sufficient credits over the following three years to offset the shortfall. Mercedes did not file a carry-back plan. Instead, it sent the agency a letter, dated July 6, 1987, challenging the basis for the preliminary finding of noncompliance.

In August 1987, Mercedes filed with the agency a petition for rulemaking requesting that the agency reduce both the standard of 27.0 mpg for model year 1984 and the standard of 27.5 mpg for model year 1985 to 26.0 mpg or lower. Mercedes indicated two bases for granting its petition.

First, Mercedes argued that, due to events after their establishment, the standards for model years 1984 and 1985 exceed the "maximum feasible average fuel economy level." Mercedes concluded that they are thus "incompatible with the EPCA and must

be lowered to the actual maximum feasible level." The petitioner argued that, even under the agency's own current interpretation of "maximum feasible," the standards in those years were too high, because two of the major domestic car manufacturers with substantial market shares, GM and Ford, did not meet those standards. Because NHTSA's rulemaking notices regarding the reduction of the model year 1986 standard stated that these manufacturers had used reasonable efforts to reach that standard, Mercedes contended that their failure to reach the 1984–5 standards must mean that those standards also were too high.

Second, petitioner argued that the agency's current interpretation of "maximum feasible" is invalid. Mercedes stated that the agency's interpretation of "maximum feasible" focuses on the capabilities of GM and Ford to define what is feasible for the industry at large, and disregards the capabilities and limitations of the rest of the industry. The agency's approach, according to Mercedes, excludes significant segments of the automobile market, and is discriminatory. Mercedes argued that NHTSA should take into account the collective capability of manufacturers within each significant market segment. The petitioner suggested that European manufacturers, and limited line manufacturers, should each be treated as a separate class.

General Motors

General Motors was advised of its model year 1985 shortfall by NHTSA in a letter dated May 4, 1987. A plan for earning offsetting credits in subsequent model years was submitted by General Motors on June 26, 1987, and approved by the NHTSA Administrator on October 13, 1987.

General Motors filed its petition on November 10, 1987, seeking amendment of the model year 1985 standard to 26.0 mpg or lower. General Motors provided a somewhat different rationale for its argument, and specifically did not join Mercedes in seeking amendment of the 1984 standard. General Motors' primary argument focused on the analysis conducted by NHTSA in support of its decision to reduce the model year 1986 standard, in which NHTSA concluded that General Motors and Ford had sufficient plans to meet a standard of 27.5 mpg for model year 1986, that they had made significant progress in implementing those plans, but that they were prevented by unforeseen events from fully implementing the plans. General Motors argued that the same analysis applies to model year 1985, and stated that "the only difference between the two years is that manufacturers had even less time to overcome the unforeseeable by MY 1985."

Agency Response To Petitions

NHTSA has decided to deny both petitions. The agency does not disagree that its analysis of the reasonable efforts made by the manufacturers to meet the 1986 standard has relevance to the industry s capabilities for model year 1985. General Motors is essentially correct in observing that the only difference between the two years is that the industry had even less time to achieve the 1985 standard. NHTSA continues to believe that the industry as a whole had sufficient plans to meet the 27.5 mpg standard for model year 1986 and made significant progress toward doing so, but was prevented from fully implementing the plans by unforeseen events, particularly the unanticipated fall in gasoline prices, and attendant consumer demand for larger engines and larger cars.

Notwithstanding the agency's acknowledgement that, in retrospect, events in the early/mid 1980's created compliance difficulties and may even have caused the model year 1985 standard to exceed the industry's capabilities for that year, the agency does not believe that this observation is sufficient to justify a retroactive amendment, particularly in the absence of a timely petition for rulemaking from the regulated industry. The agency bases its decision primarily on a determination that such a retroactive amendment would be inconsistent with the statutory scheme. As to the Mercedes arguments about the agency's interpretation of the statutory term "maximum feasible," the agency reaffirms its interpretation.

I. The Authority To Amend is Discretionary, But Cannot Be Exercised in Such a Way as To Disturb the Statutory Scheme

The agency has stated on several occasions that it interprets section 502 as providing the agency full discretion to decide whether an amendment of an average fuel economy standard is warranted. Thus, the agency disagrees with the petitioners' view that the agency has any *duty* to amend the CAFE standards. Since Title V provides no explicit guidance to the agency for exercising its discretion, the agency is limited only by the APA, which directs that agencies not act arbitrarily or capriciously. (While not providing guidance on the question of whether to amend, the statute does expressly provide that an amendment, *if made*, must be set at the maximum feasible level. This point is discussed more fully below.)

In the absence of explicit guidance in Title V on the exercise of its discretion, NHTSA has looked to the statutory scheme as a whole and the APA to determine whether it should or could amend a CAFE standard for a bygone year. The agency has concluded that such retroactive amendment is inconsistent with several aspects of the statutory scheme. First, the agency believes that the statutory scheme of establishing annual standards, but permitting the attainment of compliance through the earning and applying of credits to handle shortfalls, is not consistent with retroactive amendment of a standard after the end of the applicable model year. Congress included a one year carry-back/carry-forward provision in Title V in 1975 to provide the manufacturers some flexibility in dealing with the problems created by falling short of a standard. When Congress amended Title V in 1980 to extend the availability of credits from one year to three, and provided for the submission of carry-back plans for the use of credits in advance of their actually being earned, the legislative history made it clear that Congress believed it was increasing the manufacturers flexibility regarding the problems associated with shortfalls. The Senate Report stated that the extension "to provide greater flexibility in the application of existing rules covering carry-forward/carry-back of civil penalties (sic; should have read "credits") will relieve some of the burden of present regulation on automobile manufacturers." Sen. Rpt. No 96–642, March 25, 1980, page 4. With respect to the requirement for submittal of a plan, the Report stated that:

> submittal of such a plan offers useful deterrent to a scenario (improbable though it may be) in which a manufacturer might fail over a successive period of as many as 3 years to meet each year's CAFE standard and then appeal for economic relief from a massive civil penalty accrued over that period. *Ibid*, page 7.

The flexibility of carry-forward and carry-back credits would not have been needed if the agency could (or must, as the petitions imply) retroactively amend standards to account for industrywide shortfalls. The fact that Congress did extend the availability of credits suggests that retroactive amendment was not thought to be an available option. It further suggests that Congress recognized that there would be some years in which shortfalls might occur for a variety of reasons. Instead of directing the agency to remedy such shortfalls

through retroactive rulemaking, Congress chose to expand the availability of credits to offset these potential shortfalls.

Other aspects of the statutory scheme that would be disturbed by retroactive amendments are the precise and narrow provisions for commencing a proceeding to determine the existence of a noncompliance and to assess civil penalties and for mitigation of civil penalties in the event that a shortfall cannot be offset by credits. Congress chose to restrict this authority of the Secretary of Transportation quite specifically. With respect to mitigation of penalties, Congress provided for mitigation in three specific instances only, specifying express limitations on the exercise of discretion in two of the instances and requiring consultation with the Federal Trade Commission in the other instance. If retroactive rulemaking amounted to an indirect attempt by the agency to remit penalties, it would be contrary to the statutory scheme.

Finally, the statutory scheme for making refunds to manufacturers for civil penalties already paid would also be disturbed by retroactive amendment. Sections 507 and 508 together provide that a manufacturer which has violated a standard (i.e., has fallen short of a standard and has not obtained agency approval of a plan projecting its earning of sufficient credits in the three following years to completely offset its shortfall) must pay the civil penalty for the shortfall, and later apply for a partial refund in the amount of any credits actually earned during those subsequent three years. The provision in section 508 regarding the refund of civil penalties is the only provision in Title V dealing with that subject. Yet, the retroactive amendment sought by these two petitioners would cause refunds to be made in excess of $3 million to two manufacturers that paid civil penalties for one or both of model years 1984–85. These refunds would be made, not because those manufacturers earned credits in subsequent years, as the statute contemplates, but because the standards would have been retroactively amended.

Further, reducing a standard for a model year after the year is over would raise questions about equity of such an amendment for manufacturers which absorbed the costs of compliance with the standard for a particular model year. While not directly disturbing the statutory scheme in the same manner as the examples above, these perceived inequities must be considered by the agency in the context of whether the manufacturers that did comply (with or without credits) might decline to make efforts in the future, counting instead on retroactive amendment. If this were to occur, the statutory scheme would indeed be disturbed.

In its October 1984 decision amending the model year 1985 light truck CAFE standards (49 FR 41250, October 22, 1984), NHTSA concluded that "petitions to amend fuel economy standards must be submitted in time to permit necessary rulemaking to be completed prior to the start of the model year," 49 FR at 41255. The agency relied on both the Administrative Procedure Act (APA) and the statutory scheme of Title V, to support its view that courts would be unlikely to imply authority to issue retroactive rules in the context of Title V. *Ibid.*

General Motors now argues that retroactive rulemaking may be permissible under the APA in some circumstances. The agency agrees, and notes that this issue is unsettled and presently under consideration by the Supreme Court of the United States. *Bowen* v. *Georgetown University Hospital*, U.S. S.Ct., No. 87–1079, petition for certiorari granted February 29, 1988. However, the fact that retroactive rulemaking may sometimes be permissible under the APA does not mean that an agency must adopt rules whose effect is largely, if not entirely, retroactive. Under the APA, an agency decision to apply a rule retroactively will be set aside if it is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. 706(2)(A).

General Motors also has argued that an amendment to the model year 1985 standard has "future" (as well as retroactive) effect because it could influence the behavior of regulated parties in model year 1988 (the last year in which "carry-back" credits may be earned to offset MY 1985 shortfalls.) The agency is not persuaded that an amendment to a standard for a bygone model year could be seen as *regulating* the future conduct of those parties. The standard for any given year regulates each manufacturer by requiring it to produce a fleet of passenger automobiles in that year which meets the standard. The manufacturer's opportunity to use credits from other years to offset noncompliance of the given year's fleet with the standard for that year does not alter the fact that the given year is the period of time regulated by that standard. An amendment now of the model year 1985 standard would not and could not regulate the conduct of any manufacturer during that year since the production period for that year is long over. There is no more opportunity for the regulated parties to revise their model mixes or otherwise change their behavior in that model year.

Even if the time period during which credits could be earned were of any theoretical significance in assessing the prospective effect of making retroactive amendments to standards for prior model years, it is not significant in this case. Because these petitions were filed so late, the agency could not issue a final rule soon enough even to affect, much less regulate, any future conduct of the manufacturers. The time period during which carry-back credits could have been earned for application to model year 1984 was virtually over when Mercedes filed its petition. As for the time period in which to earn carry-back credits for application to model year 1985, that period would be virtually over by the summer of 1988, which is when any final rule amending that standard would have been issued.

The agency also believes that the retroactive reduction of standards is inconsistent with the legislative history of Title V. Both petitioners argued that the statute is entirely consistent with the concept of retroactive amendment, citing particularly the absence of express statutory prohibitions or deadlines for such amendments, as compared with the express, straightforward provisions governing the timing of amendments to increase the standards. Petitioners also suggested, erroneously, that the agency addressed the issue of retroactive amendments as early as its issuance of the model year 1981–84 standards in 1977 and that it interpreted Title V as permitting such amendments.

The issue of retroactive amendments and the interpretation of legislative language and history in the context of that issue were not discussed or even considered by the agency in issuing the model year 1981–84 standards or in addressing, during the next six years, the issue of the agency's authority to reduce those standards. Further, the agency finds nothing in the record to support the petitioners expansively reading that 1977 agency statement or any other agency statement prior to 1984 as an agency endorsement of reducing a standard after the beginning of the model year to which it applies. Although the agency's 1977 final rule on the model year 1981–84 standards stated that amendments reducing a standard for a model year could be issued "at any time," there is nothing in the preamble to suggest that the agency had in mind

retroactive rulemaking in making that statement. A more reasonable reading of that statement is that it merely took note of the substantial number of years between 1977 and the 1981–84 period, which would permit extensive opportunities to consider issuing an amendment reducing one of these standards, since such amendments could be made at any time prior to the model year in question. NHTSA noted its flexibility in issuing amendments to reduce a standard in contrast to the requirement in section 502(f)(2) that amendments raising standards be issued 18 months in advance of the model year in question. The statement also served to contrast the flexible amendment authority with the requirement in section 502(a)(3) rigidly scheduling the promulgation of the model year 1981–84 standards in the first place. Finally, NHTSA also sought to contrast the substantial interval between 1977 and model years 1981–1984 with the much shorter interval available to the Environmental Protection Agency in considering whether to suspend the model year 1975 emission standards, as discussed in *International Harvester Company* v. *Ruckelshaus*, 478 F.2d 615 (D.C.Cir. 1973).

The issue of retroactively amending a generally applicable standard first arose before the agency in the context of its consideration of Ford's petition to lower the model year 1984–85 light truck standards. That petition was filed on November 21, 1983. The interpretation which the agency subsequently issued was one of first impression. The agency's conclusion that retroactive amendments were inconsistent with the legislative history of Title V was first set out in its proposal to deny, as untimely, Ford's petition to reduce the model year 1984 light truck standard, but to grant its petition to reduce the model year 1985 light truck standard. That proposal was published May 30, 1984 (49 FR 22516), well in advance of the beginning of model year 1985. The reasoning underlying the interpretation was discussed in the May proposal and was more fully laid out in a publicly-available August 23, 1984, letter from the agency to Ms. Winkler-Doman of Ford, and was reiterated in the agency's October 22, 1984 (49 FR 41250) final rule reducing the model year 1985 light truck standard. That notice set forth the agency's interpretation for the benefit of anyone contemplating petitioning in the future for retroactive amendment of any of the fuel economy standards. The notice also responded to Ford's request for the agency to specify a precise date by which petitions to reduce a standard must be submitted to the agency. The agency did not establish a mandatory submission date, but did suggest that proper agency consideration of a petition to reduce a standard for a given model year would be facilitated if petitions were submitted early in the calendar year in which that model year begins.

The agency here reaffirms its 1984 interpretation regarding retroactive amendments. The D.C. Circuit cited this interpretation in *In Re: Center for Auto Safety*, 793 F.2d 1346, 1348 (1986). NHTSA believes that the petitioners have not stated any compelling reason for changing that original interpretation and that there is insufficient reason to justify a departure from the agency's prior interpretation, as required by courts. See *Motor Vehicle Manufacturers Association* v. *State Farm*, 463 U.S. 29, 41–42, 103 S.Ct. 2856, 77 L.Ed.2d 443 (1983).

In its 1984 interpretation, the agency noted that while the statute does not contain explicit language concerning an amendment which lowers a CAFE standard, it does contain language that suggests that reductions are to be made prospectively, i.e., before the beginning of the model year in question. The agency cited arguments by Chrysler that amendments reducing the stringency of standards must be made at least 18 months before the beginning of the model year and that, therefore, Ford's petition regarding model year 1984–5 light truck standards was too late with respect to both models years. Chrysler argued that section 502(b) calls for 18 months leadtime for any light truck standards being prescribed and that changes in standards come within that requirement. Chrysler argued also that the 18 month requirement of section 502(f)(2) was applicable since granting Ford's request would in effect make the standards more stringent for Chrysler. Section 502(f)(2) applies to amendments to passenger automobile standards as well as those to light truck standards.

On the other hand, there are other statutory provisions that some past commenters have interpreted to the opposite effect. Section 502(f)(1) provides that amendments to the 1981–84 car standards may be made "from time to time." Some manufacturers have interpreted that language to indicate that there is no temporal limitation on amendments reducing standards. They have also noted the absence of any express limitation in the statute on the time period in which an amendment reducing a standard may be adopted.

To aid in resolving this issue, the agency carefully examined the legislative history of section 502. The relevant legislative history of section 502 is found in the Conference Report on EPCA which contains the following discussion:

> Average fuel economy standards prescribed by the ST (Secretary of Transportation) for passenger automobiles in model years after 1980, for non-passenger automobiles, and for passenger automobiles manufactured by manufacturers of fewer than 10,000 passenger automobiles may be amended from time to time as long as each such amendment satisfies the 18 month rule—i.e., *any amendment which has the effect of making an average fuel economy standard more stringent must be promulgated at least 18 months prior to the beginning of the model year to which such amendment will apply. An amendment which has the effect of making an average fuel economy standard less stringent can be promulgated at any time prior to the beginning of the model year in question.* See Sen. Rep. 94–516, 94th Cong., 1st Sess. (1975) at 157. (Emphasis added.)

The agency reaffirms its belief that the language in the legislative history is clear. Amendments increasing standards may be made at any time up to 18 months before the model year, while amendments reducing a standard may be made at any time up to the beginning of the model year. If no limit on the timing of amendments reducing the standards had been intended, the second-quoted sentence would have ended with the words "promulgated at any time."

As to the petitioners arguments about the absence of any express deadline in Title V for amendments reducing a standard, the agency notes that deadlines are generally specified in Title V, as in the agency's other vehicle regulatory statutes, to ensure that the agency completes its rulemaking establishing new requirements far enough in advance of the effective date to provide adequate leadtime for regulated parties to achieve compliance. Although Title V does not contain an express requirement that an amendment reducing a standard be issued before the beginning of the model year to which it applies, the agency does not interpret the fact of that absence to indicate that Congress permits retroactive amendment of the standards. In light of the legislative history, it is likely that Congress viewed a provision expressly specifying such a deadline as unnecessary.

General Motors made a related argument that the conference committee's choice of the House's 18-month deadline for amendments *increasing* standards over the Senate's 18 month deadline for *all* amendments to standards indicates that Congress

desired that there be no deadline for amendments reducing standards. The legislative history of Title V provides no indication that Congress wanted to authorize retroactive rulemaking. The agency believes that the choice of the House version indicates only that Congress recognized that no leadtime was necessary to enable manufacturers to conform their conduct to a relaxing amendment and sought to allow the issuance of such amendments right up to the beginning of the model year. Cutting these amendments off 18 months before the beginning of the model year would have been inconsistent with the provision in the APA allowing a rule relieving a restriction to become effective immediately upon issuance.

General Motors stated that the agency has, on several occasions, amended a CAFE standard after the beginning of the model year to which it applies and suggested that those actions indicate that the agency does not, in fact, regard the beginning of the model year as a deadline for issuing an amendment that relaxes a standard. General Motors argued further that even if the beginning of the model year is a deadline contemplated by Congress, the expiration of the deadline does not deprive the agency of its rulemaking authority. The rulemaking actions underlying General Motors' arguments were NHTSA's amendment of the 1982 and 1985 model year standards for light trucks after the beginning of the respective model years and the agency's issuance of exemptions from the generally applicable standards for passenger automobiles after the beginning of the model years to which they applied. As further support for its argument about the alleged insignificance of the expiration of a rulemaking deadline. General Motors noted the agency's issuance of several light truck standards after the statutory deadline of 18 months before the beginning of the model year.

The 1982 amendment to the model year 1982 light truck standard is distinguishable from the amendments sought by the petitioners in that the amendment did not reduce that standard. The amendment, which added an alternative compliance option for model year 1982 light trucks, did not reduce the level of average fuel economy that a manufacturer would be required to achieve. The stringency of the standard therefore remained unchanged. (February 18, 1982; 47 FR 7245, 7247.)

At the time of its issuance, the agency believed that the October 16, 1984 amendment to the model year 1985 light truck standard was timely. This belief was based on the fact that the amendment was issued during the first month of fall, and that a model year was then viewed as starting for the industry as a whole at some undefined point during in the fall (*Center for Auto Safety* v. *NHTSA*, 710 F.2d 842 (D.C. Cir. 1983)). In that case, the court applied the APA definition of "rule" in determining that the withdrawal of an advance notice of proposed rulemaking regarding CAFE standards constituted a rule as that term is used in the Title V provision subjecting rules to judicial review in accordance with the APA. In *In Re Center for Auto Safety*, 793 F.2d 1346, 1349 (D.C.Cir. 1986), the Court of Appeals for the D.C. Circuit subsequently found that the industry model year is traditionally thought to begin on October 1. Even if October 1 is to be regarded as the beginning of the industry model year, the interval between that date and October 16 is de minimis. The resultant adverse effect on the statutory scheme of issuing a standard at the end of that interval is likewise de minimis.

General Motors suggested that *In Re Center for Auto Safety* can be viewed as upholding the 1985 and 1986 standards for light trucks notwithstanding the Court's viewing both actions as untimely. NHTSA believes that the expiration of a statutory deadline does not, in and of itself, deprive an agency of the ability to carry out a mandatory duty to establish light truck CAFE standards. However, NHTSA does not believe that *In Re Center for Auto Safety* stands for the proposition that the agency may freely exercise its discretionary rulemaking authority after the expiration of a deadline for exercising it. That question was not directly at issue in that case. Further, the Court's disapproval of post-deadline rulemaking actions is clear. The Court noted that the amendment to the MY 1985 light truck standards was issued after the beginning of the model year (793 F.2d at 1349) and characterized the agency's missing of the 18-month statutory deadline as both illegal and unreasonable. The Court stated further that:

> As the model year approaches, the agency loses the capacity to do anything more than rubberstamp the fuel economy levels projected by the manufacturers unless it wishes to risk economic dislocation. When the agency's role descends to this level, not only is NHTSA's credibility impaired, but EPCA's system of mandatory standards becomes meaningless. (*Ibid.* at 1354.)

This disapproving view of the agency's missing a statutory deadline for the *mandatory* establishment of light truck CAFE standards does not supply any support for the notion that the agency could freely ignore a deadline for the *discretionary* act of amending standards, particularly in the case of an amendment that would (as in the case of the amendments sought here by petitioners) be issued not *during* the first month of the model year in question (as in the case of the amendment of the 1985 model year standard), but *years later*.

As to the granting of exemptions and setting of alternative standards for low volume manufacturers, the agency believes the difference between providing a low volume manufacturer with an exemption from the generally applicable standards and amending those standards as they apply to the nonexempt manufacturers is significant. Low volume manufacturer exemptions are contemplated by the statute. Granting even retroactive exemptions does not disturb the statutory scheme of Title V. The low volume manufacturers account for only a small fraction of one percent of the total annual production of passenger automobiles and each exemption is applicable only to one specific manufacturer. Granting the low volume exemptions leaves undisturbed the statutory scheme for establishing and enforcing industry-wide CAFE standards for the manufacturers representing the remaining 99 plus percent of total annual production. The conference report language cited above regarding the timing of amendments that reduce standards applies only to amendments reducing the generally applicable standards.

II. Even if the Agency Concluded That Retroactive Amendment Were Consistent With the Statutory Scheme, It Would Have to Establish the "New" Standard at the Maximum Feasible Level

Both petitioners have suggested that the appropriate CAFE standard for 1985 is 26.0 mpg "or lower," notwithstanding the fact that neither General Motors nor Mercedes reached the 26.0 level that year. Mercedes makes the same suggestion for the 1984 standard. In fact, General Motors' CAFE for 1985 was 25.8, while Mercedes' CAFE that year was 23.6 mpg. It is not clear why the petitioners suggested a range of levels, some of which are above the CAFE levels they actually achieved. While reducing the standards, but not as far as the levels actually achieved, would certainly make it easier for petitioners and others to offset the remaining (smaller) shortfall with available credits, this agency has consistently declined to consider the availability of credits (or

conversely, the need for credits) in its annual standard setting. See *Center for Auto Safety* v. *Claybrook*, 627 F.2d 346, at 348 (D.C.Cir. 1980) on the related issued of considering the ability to pay civil penalties. Thus, the agency could not establish a standard of 26.0 mpg merely because petitioners have enough credits to offset the remaining shortfall.

The agency notes that the petitioners might have suggested an amended standard of 26.0 mpg, as opposed to some lower standard, because of uncertainty over whether the agency retains its authority to set passenger automobile standards below 26.0 in the wake of the Supreme Court's decision in *Immigration and Naturalization Service* v. *Chadha*, 462 U.S. 919 (1983), regarding legislative vetoes. Section 502(a)(4) provided that amendments setting a standard for 1985 or any year thereafter outside the 26.0 to 27.5 mpg range were subject to a legislative veto. However, such legislative vetoes were declared unconstitutional in *Chadha*. There is a difference of opinion whether the legislative veto provision in section 502(a)(4) is fully severable from the language in the balance of that section authorizing amendment of the standard for 1985 or any year thereafter to whatever level is found by the agency to be the maximum feasible level. Some commenters in past fuel economy rulemakings have suggested that the veto is not fully severable. However, as Mercedes noted in its petition, the Department of Justice has previously advised this agency that it had reached the opposite conclusion.

In suggesting 26.0 mpg, the same as the level of the amended standards for model years 1986–88, petitioners have not suggested a new analytical approach to the determination of "maximum feasible," nor is there any reason to believe that 26.0 mpg would be the industry-wide "maximum feasible" level for 1984 or 1985. In establishing a new standard for model year 1984 or 1985, the agency would not be able simply to use the result (i.e., the establishment of amended standards of 26.0 mpg) or even the methodology of the rulemaking proceedings it conducted in 1985 and 1986 to reduce the model year 1986–88 standards. Those results and the methodology were peculiarly suited to the particular circumstances of those model years and to the timing of the amendments in relation to those model years.

The agency disagrees with Mercedes' suggestion that the level of CAFE actually achieved by the manufacturers in model year 1984–85 provides, by itself, an appropriate or reliable guide to determining the maximum feasible level of CAFE for those years. The agency could not simply adopt the level of actual achievement as the maximum feasible level. For the agency to take that approach would be to "rubberstamp" the decisions of the manufacturers instead of making an independent determination about the manufacturers' capabilities. The issue that must be resolved by the agency is not only what the manufacturers in fact achieved, but also whether they could have accomplished more.

To the extent that the various manufacturers achieved significantly different levels of CAFE in a given year, the issue whether the level achieved by the manufacturers with lower CAFE represents the maximum they could have achieved becomes even more important. The agency observes that while both petitioners fell below even the 26.0 level for model year 1985, Ford achieved 26.6 mpg that year.

Even if actual industry achievement were an appropriate departure point for an analysis of the proper level, it does not appear that a level of 26.0 mpg would sustain analytic review. General Motors suggested that the agency should apply its own methodology explained in the decisions to reduce the standards for model years 1986–1988. That methodology consisted of:

> first evaluating the maximum feasible average fuel economy level that manufacturers are now capable of achieving * * *, taking into account the four factors of section 502(e) and second, to the extent that level is determined to be below 27.5 mpg, assessing the sufficiency of manufacturers' efforts to meet the 27.5 standard, in light of the information available to manufacturers at the time fuel economy product decisions were being made and the four factors of section 502(e). (October 4, 1985; 50 FR 40528, 40533)

The "reasonable efforts" test regarding the sufficiency of the manufacturers' compliance efforts to date was adopted by the agency in its belief that it would be an abuse of discretion to reduce a CAFE standard if a current inability to meet such standard simply resulted from the regulated industry's previously declining to take sufficient steps to meet the standard. Reducing a standard based on an inability of that origin would be inconsistent with Title V's mandate for a program of *maximum feasible* CAFE standards.

General Motors' petition states that application of this methodology dictates that the model year 1985 standard should be amended to 26.0 mpg or lower. However, the petitioner may have misapprehended the agency's reliance on the "reasonable efforts" test. In other proceedings, the agency's analysis of "reasonable efforts" was a factor in deciding *whether to amend at all*, but was not used by the agency in selecting a particular level at which to set an amended standard. Instead, the agency determined the new "maximum feasible" fuel economy level, as specified in section 502(e), by assessing the manufacturers' capabilities for fuel economy improvement in the remaining time available to the manufacturers.

Obviously, the concept of "improvements in the time remaining" is not relevant in the context of retroactive rulemaking, since there is no "time remaining" in which to make improvements. However, it is not clear what analytical approach would take its place, nor have petitioners suggested any. For example, the agency's consideration of the "economic practicability" criterion has focused on the costs of complying with the standard in a particular year, without regard to available credits. This analysis does not work with a retroactive assessment of "maximum feasible," since the petitioners did not comply, and since it is now impossible to incur any costs (or restrict any products) in order to comply in a model year that has already ended. The agency acknowledges that there could be costs associated with generating credits in later years in order to offset the 1985 shortfall, but, consistent with its longstanding practice, it has not considered the need for, or availability of, credits in assessing the "economic practicability" of a particular standard for model year 1985.

The agency is not, however, declining to amend merely because it would have to determine the "maximum feasible" level for model year 1985 independent of the determination already made for model year 1986 or because it would be hard to make the determination for model year 1985. The agency cites the analytical difficulties only as support for its argument that the statutory framers did not contemplate retroactive rulemaking when they drafted the law. NHTSA notes, however, that any retroactive standard setting that purported to have analytic support (instead of standard setting based on merely accepting actual achievement by the industry as the definition of "maximum feasible.") would necessarily involve the agency in the sort of "second-guessing" after-the-fact that it tried to avoid in the model year 1986-1988 proceedings. As NHTSA noted in those proceedings, it is easy to reflect from today's vantage point on choices that the manufacturers could have made

in the early 1980's in order to meet the standard by 1984 and 1985. The agency declined to judge manufacturers' choices about product actions with 20-20 hindsight, however, deeming that "inappropriate" (50 FR 40528, 40533; October 4, 1985). NHTSA could not avoid that kind of "inappropriate" second-guessing if it were to grant these petitions, since it would have to determine independently what the correct "maximum feasible" level was.

III. The Agency's Reaffirms Its View of the Meaning of "Maximum Feasible Fuel Economy Level"

Mercedes argued in its petition that NHTSA's interpretation of the statutory concept of "maximum feasible" is invalid under Title V, because it concentrates on those manufacturers with substantial market share and excludes significant segments of the market, i.e , European manufacturers and limited line manufacturers, from consideration. As a result, Mercedes said, these manufacturers are forced to choose between taking drastic product actions in an attempt to comply or paying civil penalties. The petitioner stated that the agency:

> Should take into account the collective ability of manufacturers within each significant market segment, including European manufacturers, as a class, and limited line manufacturers, as a class.

Mercedes argued further that the agency's interpretation discriminates against European and limited line manufacturers and violates the provision in the Trade Agreement Act of 1979 regarding the application of standards in such a way as to create unnecessary obstacles to foreign trade. Finally, the petitioner said that the agency should consider the relationship between safety and vehicle size and weight in determining the maximum feasible level of CAFE for model years 1984–85.

The statute requires that, for each model year, there be a single standard for all passenger automobile manufacturers not exempted under section 502(c). Unlike section 502(b) regarding light trucks, section 502(a) does not authorize the separation of the passenger automobile fleet into different classes or the setting of different standards for those classes.

Section 502 does not expressly state whether the concept of feasibility is to be determined in setting passenger automobile standards on a manufacturer-by-manufacturer basis or on an industrywide basis. The agency has therefore consulted the legislative history of Title V for indications of congressional intent that would aid in resolving this question. The conference report accompanying Title V states, with respect to determining the maximum feasible average fuel economy level:

> Such determination should therefore take industrywide considerations into account. For example, a determination of maximum feasible average fuel economy should not be keyed to the single manufacturer which might have the most difficulty achieving a given level of average fuel economy. Rather, the [Administrator] must weigh the benefits to the nation of a higher average fuel economy standard against the difficulties of individual automobile manufacturers. Such difficulties, however, should be given appropriate weight in setting the standard in light of the small number of domestic automobile manufacturers that currently exist and the possible implications for the national economy and for reduced competition associated with a severe strain on any manufacturer. However, it should also be noted that provision has been made for granting relief from penalties under section 508(b) in situations where competition will suffer significantly if penalties are imposed. (S. Rep. No. 94-516, 94th Cong., 1st Sess. (1975) p. 154–55)

NHTSA has construed this language many times. For example, as NHTSA stated in the 1977 notice establishing the model year 1981–84 standards for passenger automobiles. Congress did not intend that standards simply be set at the level of the single least capable manufacturer. Setting standards in that fashion would have made achievement of Congress' goals for substantial fuel economy improvement extremely difficult, if not impossible from the start. For example, the entire statutory scheme could have been frustrated by setting the standards at the level of a small (e.g., market share of several tenths of one percent) manufacturer whose capability was 19 mpg. Such standards would have negated the ability of the statute to secure any significant improvements in industry-wide fuel economy. On the other hand, the conference report suggests that the agency must give some consideration to the potential effects on the national economy that would be associated with the particular difficulties of individual manufacturers, especially the domestic manufacturers.

In construing the conference report's discussion of balancing in the rulemaking to establish the model year 1981–84 standards, the agency noted that the average fuel economy levels of most foreign manufacturers were higher than those of the domestic manufacturers at the time of the rulemaking. According to the data used in establishing these standards, most foreign manufacturers needed only to maintain or marginally improve their average fuel economy in order to comply with those standards. Most of the methods available to domestic manufacturers for improving fuel economy were also available to the foreign manufacturers. The agency projected that the standards were clearly feasible in all years for three of the four domestic manufacturers (the exception being American Motors), for seven of ten European manufacturers (the exceptions being Mercedes, BMW, and Volvo) and for 12 of the 15 foreign manufacturers.

NHTSA noted that, in making its projections for 1981–84, Mercedes relied primarily on the single method of increasing the percentage of diesel-powered cars in its fleet. Mercedes placed little reliance on other methods. For example, Mercedes' projections were based on relatively little weight reduction. (See 42 FR 33534; at 33549)

In interpreting the conference report language since then, the agency has adopted the position that the standards should not be set above the capability of the least capable manufacturer with a substantial share of the market. (50 FR 29912, at 29923) In the final rule reducing the model year 1986 standard, and again in the final rule reducing the model year 1987–88 standards, the agency concluded that the particular compliance difficulties of several of the European manufacturers did not justify a standard set far below the capabilities of the other manufacturers.

NHTSA continues to believe that its interpretation is correct. In the mid-1980's, as in the late 1970's when the model year 1981–84 standards were established, those several European manufacturers produced only about two to three percent of the passenger cars sold in the U.S.

At the same time Mercedes suggested that the agency follow its current interpretation of "maximum feasible" and set the model year 1984–85 standards in accordance with the capability of the least capable of the manufacturers with a substantial market share, Mercedes suggested also that following the agency's interpretation would discriminate against European and limited line manufacturers. Those manufacturers are generally smaller and often less capable than the "least capable of the manufacturers with a substantial market share." The agency does not believe that the petitioner's suggestion of discrimination has merit. If the model year 1984–85 standards were changed in the fashion suggested by Mercedes, they would be *below* the CAFE of most European and limited line

manufacturers. If the model year 1984 standard were set at the 24.9 mpg level achieved by General Motors for that year, the standard would be above Jaguar's level, but *below* that achieved by Peugeot, Saab, Mercedes, Alfa-Romeo, and Volkswagen. If the model year 1985 standard were set at the 25.8 level achieved by General Motors for that year, the standard would be above the levels of Jaguar, Mercedes, and Peugeot, but *below* those of Porsche, BMW, Saab, Volvo, Alfa-Romeo and Volkswagen.

As to Mercedes' suggestion about considering the relationship of safety to vehicle size and weight in reducing the model year 1984–85 standards, the agency notes that size and weight of the model year 1984–85 passenger automobiles would not be affected by any change now in those standards, because those vehicles were built and sold long ago. Consequently, even if the agency agreed that the safety of those vehicles would be theoretically affected by the CAFE level, safety could not now be enhanced by retroactively reducing those standards. For a further discussion of NHTSA's views regarding the relationship of safety and CAFE standards, see the final rule reducing the model year 1987–88 standards for passenger automobiles (October 6, 1984; 51 FR 35594, at 35612–35613).

NHTSA also notes that Mercedes' arguments regarding the interpretation of "maximum feasible" are directed at methodology and conclusions reached in the agency's rulemakings to reduce the model year 1986–88 standards, and thus, are outside the scope of Mercedes' petition to reduce the model year 1984–85 standards. Although the reduction of the model year 1986–88 standards has been challenged in court, Mercedes did not join that challenge. When the model year 1984 standard was set, the agency acknowledged that the standard was higher than the projected capability of Mercedes (among others). (See the final rule establishing the model year 1981–1984 CAFE standards, June 30, 1977; 42 FR 33534, 33549). Mercedes similarly did not seek judicial review of that rule. Of course, the model year 1985 standard was set by statute, and did not take account of any particular manufacturer's projected capability for that year.

(15 U.S.C. 20002; delegation of authority at 49 CFR 1.50)

Date: April 25, 1988.

Diane K. Steed,

Administrator.

[FR Doc. 88–9342 Filed 4–25–88; 12:04 pm]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 53, No. 82
Thursday, April 28, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Administration; Public Meeting

Summary: Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of a meeting of the Special Committee on Financial Services of the Administrative Conference of the United States. The Committee has scheduled this meeting to develop proposed recommendations dealing with Implementation of the Bank Holding Company Act: the Adjudicatory Procedures of the Federal Reserve Board, based upon a study by Professor Alfred C. Aman, Jr., of Cornell University Law School; and the Administrative Adjudication of Claims Against Savings Institution Receiverships, based upon a study by Professor Lawrence G. Baxter of Duke University School of Law. Copies of the Committee's report may be obtained from the contact person named in this notice.

DATE: Friday, May 6, 1988 at 2:00 p.m.

Location: Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC 20037.

Public Participation: Committee meetings are open to the interested public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days prior to the meeting. The committee chairman may permit members of the public to present oral statements at the meetings. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

FOR FURTHER INFORMATION CONTACT. Brian C. Murphy, Office of the Chairman, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037. Telephone: (202) 254–7020.

Jeffrey S. Lubbers,
Research Director.

[FR Doc. 88–9472 Filed 4–27–88; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

Rapid River Roadless Area; Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Department of Agriculture, Forest Service will prepare an environmental impact statement for proposed development within the Rapid River Roadless area which is within the New Meadows Ranger District and the Council Ranger District. Development is the established direction in the preferred alternative of the Payette Forest Plan. Development alternatives were reviewed by the public earlier in the Payette Draft Forest Plan.

A range of alternatives for this area will be considered. One of these will be nondevelopment of the site. Other alternatives will consider development designs for timber production, wildlife and fishery habitat activities, and recreation opportunities.

Federal, State, and local agencies; potential users of the area; and other individuals or organizations who may be interested in, or affected by, the decision will be invited to participate in the scoping process. This process will include:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a previous environmental review.
4. Determination of potential cooperating agencies and assignment of responsibilities.

The Fish and Wildlife Service, Department of the Interior, will be invited to participate as a cooperating agency to evaluate potential impacts on threatened and endangered species habitat if any such species are found to exist in the area.

Philip Jahn, Council District Ranger, and Pete Walker, New Meadows District Ranger, are the responsible officials.

The analysis is expected to take about eight months. The draft environmental impact statement is expected to be filed with the Environmental Protection Agency and to be available for review by July 1988. At that time EPA will publish a notice of availability of the DEIS in the **Federal Register.** The comment period on the draft environmental impact statement will be 45 days from the date the EPA notice of availability appears in the **Federal Register.** The final environmental impact statement is scheduled to be completed by October 1988.

DATE: Written comments and suggestions concerning the scope of the analysis should be sent to Veto J. LaSalle, Forest Supervisor, Payette National Forest, P.O. Box 1026, McCall, ID 83638, by June 3.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and environmental impact statement should be directed to Phil Gilman, Branch Chief, Planning, Programming, and Information, Payette National Forest, phone 208–634–8151.

Phil Gilman,
Branch Chief, Planning, Programming, and Information.

Date: April 22, 1988.

[FR Doc. 88–9481 Filed 4–27–88; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Midstate Electric Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, as amended, the Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), and REA Environmental Policy and Procedures (7 CFR Part 1794), has made a Finding of No Significant Impact (FONSI) with respect to the construction of 118.4 km (74 miles) of 115 kV transmission line by Midstate Electric Cooperative, Inc. (Midstate), and Bonneville Power Administration (BPA).

The proposed facility would be constructed in Deschutes, Klamath and Lake Counties, Oregon.

FOR FURTHER INFORMATION CONTACT: REA's FONSI and BPA's Environmental Assessment (EA) may be reviewed at the office of the Director, Southwest Area—Electric, Room 0207, South Agriculture Building, Rural Electrification Administration, Washington, DC 20250, telephone (202) 382-8848; or at the office of Midstate Electric Cooperative, Inc., (Ms. Peggy Spieger, President), P.O. Box 127, La Pine, Oregon 97739, telephone (503) 536-2126, during regular business hours. Copies of the FONSI can be obtained from either of the contacts listed above. Any comments or questions should be directed to the REA contact.

SUPPLEMENTARY INFORMATION: The U.S. Air Force (USAF) has selected the Buffalo Flats site to locate the transmitter component of its West Coast Over-the-Horizon Backscatter radar system. The system requires two independent sources of power. Midstate and BPA's proposed transmission line from the La Pine Substation to Buffalo Flats site would provide the second source of power to the system. The preferred route for the new line would extend south from the LaPine Substation approximately 5.3 km (3.3 miles) and be located adjacent to BPA's existing 230 kV transmission line. The line would then extend southeast within the right-of-way of Midstate's LaPine-Fort Rock 69 kV transmission line. The existing 69 kV line would be removed. In the Fort Rock area, the line would be rerouted to follow existing roads and section lines to avoid crossing irrigated farmlands. Tower structures in this section would include single-pole wood and steel structures. The new line would continue south from the Fort Rock Substation and then east through the town of Christmas Valley to the Buffalo Flat Substation on a 24.9 kV distribution line right-of-way. The existing 24.9 kV line would be underbuilt on the new transmission line structures. Tower structures in this section would be single-pole wood structures.

BPA has prepared an Environmental Assessment for the project and issued a FONSI on September 25, 1987. During the environmental review process REA has served as a cooperating agency. REA has independently reviewed the project and has determined that the EA represents an accurate assessment of the environmental impacts of the project. BPA's EA adequately considers potential impacts of the proposed project to resources including, but not limited to, threatened and endangered species, important farmland, prime rangeland and forest land, floodplains, wetlands and cultural resources. No other matters of environmental concern have been identified. Therefore, REA has adopted BPA's EA for the project. REA has reviewed the alternative routes and determined that the preferred route is an environmentally acceptable route. Possible actions by REA might include approval of interconnection agreements, construction contracts and agreements to serve a large power load. Alternatives considered and evaluated included no action, alternative routes and alternative designs. After reviewing the engineering, economic and environmental aspects of these alternatives, REA determined that the proposed project is an acceptable alternative that meets Midstate's needs with a minimum of environmental impact.

In accordance with REA's Environmental Policies and Procedures, 7 CFR Part 1794, Midstate advertised the project in the local newspapers. BPA and Midstate also held public meetings at Christmas Valley and Fort Rock to discuss the project and obtain comments and concerns for the preparation of the EA. BPA also distributed copies of the EA to appropriate Federal, State and local agencies and corporate and private landowners in the area.

Based upon BPA's EA and FONSI and other data, REA has prepared a FONSI concerning the proposed construction. REA independently evaluated the proposed project and concluded that approval of the project would not constitute a major Federal action significantly affecting the quality of the human environment. The preparation of an environmental impact statement is not necessary.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.850—Rural Electrification Loans and Loan Guarantees. For the reasons set forth in the final rule related notice to 7 CFR Part 3015 Subpart V., this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with state and local officials.

Dated: April 22, 1988.

John H. Arnesen,

Assistant Administrator.

[FR Doc 88-9369 Filed 4-27-88; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Avoyelles-St. Landry 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 Avoyelles-St. Landry Watershed Supplement, Avoyelles 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 findings, Horace J. Austin, State Conservationist, has determined that the preparation and review of an environmental 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 11,300 acres of critically eroding cropland.

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.)

Dated: April 18, 1988.

Horace J. Austin,

Acting State Conservationist.

[FR Doc. 88-9309 Filed 4-27-88; 8:45 am]

BILLING CODE 3410-16-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board (ATBCB).

ACTION: Notice of ATBCB meeeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB) has scheduled a meeting to be held from 9:30 a.m. to 1:00 p.m., on Wednesday, May 11, 1988, in the Crescent Ballroom A, Crescent Hotel, 2620 West Dunlap Avenue, Phoenix, Arizona.

Items on the Agenda: Election of officers; MGRAD provisions on leased facilities; and MGRAD amendments to incorporate ANSI/UFAS provisions.

Public participation is invited to discuss issues relevant to the Architectural Barriers Act and the ATBCB.

DATE: Wednesday, May 11, 1988—9:30 a.m.-1:00 p.m.

ADDRESS: Crescent Ballroom A, Crescent Hotel, 2620 West Dunlap Avenue, Phoenix, Arizona.

The Technical Programs and the Planning and Budget Committees of the ATBCB will meet on Tuesday, May 10, 1988, at the Pioneer Park, Phoenix, Arizona, from 3:00 p.m. to 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Larry Allison, Communications Manager, (202) 653-7848 (voice or TDD).

Margaret Milner,

Executive Director.

[FR Doc. 88-9308 Filed 4-27-88; 8:45 am]

BILLING CODE 6820-BP-M

COMMISSION ON CIVIL RIGHTS

North Dakota Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the North Dakota Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 12:00 noon, on May 27, 1988, at the Doublewood Ramada Inn, 1400 East Interchange Avenue, Bismarck, North Dakota. The purpose of the meeting is to plan activities and programming for the coming year.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Bryce Streibel or Philip Montez, Director of the Western Regional Division (213) 894-3437, (TDD 213/894-0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 21, 1988.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 88-9310 Filed 4-27-88; 8:45 am]

BILLING CODE 6335-01-M

Wyoming Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the Wyoming Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 1:00 p.m. on May 21, 1988, at the Casper Hilton Inn, 800 North Poplar, Casper, Wyoming, 82601. The purpose of the meeting is to plan project activities for the new charter period and to discuss civil rights issues affecting the State of Wyoming.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Donald Tolin or Philip Montez, Director of the Western Regional Division (213) 894-3437, (TDD 213/894-0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 21, 1988.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 88-9311 Filed 4-27-88; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census

Title: 1990 Decennial Census—Advance Post Office Check Reconciliation

Form Number: Agency—D-109A; OMB—NA

Type of Request: New collection

Burden: 7,692,300 respondents; 100,000 reporting hours

Needs and Uses: This operation will require some of the respondents in selected suburban and rural areas to provide information about their mailing address and the physical location of their housing unit. The purpose of this operation is to verify and update the mailing address list compiled during an earlier prelist operation.

Affected Public: Individuals or households

Frequency: One time

Respondent's Obligation: Mandatory

OMB Desk Officer: Francine Picoult, 395-7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3008 New Executive Office Building, Washington, DC 20503.

Dated: April 22, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88-9420 Filed 4-27-88; 8:45 am]

BILLING CODE 3510-07-M

Bureau of the Census

Census Advisory Committee on Agriculture Statistics; Public Meeting

Pursuant to the Federal advisory Committee Act (Pub. L. 92-463 as amended by Pub. L. 94-409), we are giving notice of a meeting of the Census Advisory Committee on Agriculture Statistics. The meeting will convene on May 18, 1988 at The Sheraton Lakeview

Hotel, 505 Marriott Drive, Clarksville, Indiana 47130.

The Committee advises the Director, Bureau of the Census, on the kind of information that should be obtained from respondents associated with agricultural production; prepares recommendations regarding the contents of agricultural reports; and presents the views and needs for data of major agricultural organizations and their members, and other suppliers of agricultural statistics.

The Committee is composed of 20 members appointed by the presidents of the nonprofit organizations having representatives on the Committee and a representative from the Department of Agriculture.

The agenda for the May 18 meeting that will begin at 1:30 p.m. and adjourn at 4:15 p.m. is: (1) Introductory remarks by the Deputy Director, Bureau of the Census; (2) review of the Census Bureau's agriculture program; (3) data dissemination plans and promotion; (4) farm classification study; (5) election of chairperson-elect; and (6) Committee recommendations.

The meeting is open to the public and a brief period is set aside for public comment and questions. Those persons with extensive questions or statements must submit them in writing to the Census Bureau official named below at least 3 days before the meeting.

Persons wishing additional information concerning this meeting or who wish to submit written statements may contact Mr. George Pierce, Agriculture Division, Bureau of the Census, Room 437, Iverson Mall, Suitland, Maryland. (Mailing address: Washington, DC 20233) Telephone (301) 763-7731.

Date: April 22, 1988.

John G. Keane,

Director, Bureau of the Census.

[FR Doc. 88-9402 Filed 4-27-88; 8:45 am]

BILLING CODE 3510-07-M

Export Administration

[Case No. OEE-1-88]

Order Temporarily Denying Export Privileges; Purchasing Pool Co.

In the matter of Wilfried Lange, individually and doing business as Purchasing Pool Company, Grasslfinger Str. 61 8038 Grobenzell, West Germany, Respondents.

The Office of Export Enforcement, Export Adminisration,[1] United States Department of Commerce (Department), pursuant to the provisions of § 388.19 of the Export Administration Regulations, 15 CFR Parts 368-399 (1987) (the Regulations), issued pursuant to the Export Administration Act of 1979, 50 U.S.C. app. 2401-2420 (1982 and Supp. III 1985)) (the Act), has asked the Deputy Assistant Secretary for Export Enforcement, in his capacity as the individual who performs the duties of the Assistant Secretary for Export Enforcement, when, as is presently the case, that position is vacant,[2] to issue an order temporarily denying all United States export privileges to Wilfried Lange, individually and doing business as Purchasing Pool Company (hereinafter collectively referred to as respondents).

The Department states that as a result of an ongoing investigation, it has reason to believe that, on numerous occasions since the end of 1985, respondents have reexported, without the required reexport authorization from the Department, U.S.-origin computers, which are controlled for reasons of national security, from West Germany to Austria, Yugoslavia and Hungary.

The Department's investigation has also given it reason to believe that, in connection with the Department's investigation into respondents' trade-related activities, respondents have provided the Department with false and misleading information. Specifically, the Department believes that respondents have provided it with false invoices in an effort to hide the fact that they have reexported certain controlled U.S.-origin commodities from West Germany without the required reexport authorization.

The Department states that its investigation has given it reason to believe that a contract for, *inter alia*, two U.S.-origin computers, which are controlled for reasons of national security, presently exists between respondents and a Czechoslovakian foreign trading firm. The Department also states that its investigation has given it reason to believe that respondents clearly intend to fulfill the contract in question and that they are likely to do so without complying with the Regulations.

The Department states that, viewed as a whole, the above-described events concerning respondents' past activities demonstrate that respondents are involved in a scheme to obtain controlled U.S.-origin commodities, lawfully or otherwise, take possession of them in West Germany and then reexport them, oftentimes to proscribed destinations, without obtaining the required reexport authorization. Accordingly, the Department believes that respondents' activities show a clear pattern of disregard for the Act and the Regulations.

The Department also believes that respondents' past activities establish that the violations of the Act and the Regulations which they are suspected of having committed and which the Department is presently investigating were deliberate and covert and are likely to occur again unless appropriate action is taken to reduce the likelihood that respondents can continue to acquire U.S.-origin goods either inside or outside of the United States.

Furthermore, the Department believes that in order to reduce the likelihood that respondents will continue to engage in activities which are in violation of the Act and the Regulations, a temporary denial order naming Wilfried Lange and Purchasing Pool Company is necessary to give notice to companies in the United States and abroad that they should cease dealing with these parties in transactions involving U.S.-origin goods.

Therefore, based on the showing made by the Department, I find that an order temporarily denying export privileges to the respondents is necessary in the public interest to prevent an imminent violation of the Act and the Regulations and to give notice to companies in the United States and abroad to cease dealing with the respondents in goods and technical data subject to the Act and the Regulations in order to reduce the substantial likelihood that respondents will continue to engage in activities which are in violation of the Act and the Regulations. This order is issued on an *ex parte* basis without a hearing based

---

[1] On October 1, 1987, in accordance with the pertinent provisions of the Export Administration Act of 1979, as amended, and a Departmental directive from Bruce Smart, Acting Secretary of Commerce, implementing those provisions, the Office of Export Enforcement was moved within the Department from the International Trade Administration of the United States Department of Commerce to the Export Administration of the United States Department of Commerce.

[2] The reorganization which created the Export Administration also created the Office of the Under Secretary for Export Administration and the Office of the Assistant Secretary for Export Enforcement.

As a result, the Assistant Secretary for Export Enforcement is now the Department official who issues temporary denial orders, even though § 388.19 of the Regulations has not yet been updated to reflect this fact. At present, however, this position is vacant.

On November 3, 1987, Paul Freedenberg, the Acting Under Secretary for Export Administration, designated the Deputy Assistant Secretary for Export Enforcement as the Department official who is to perform the duties of the Assistant Secretary when that position is vacant. This order is being issued in accordance with the terms of that designation.

on the Department's showing that expedited action is required.

Accordingly, it is hereby ordered

I. All outstanding validated export licenses in which either respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of respondents' privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

II. Respondents Wilfried Lange and Purchasing Pool Company, both with an address at Grasslfinger Str. 61, 8038 Grobenzell, West Germany, their successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported or to be exported from the United States, in whole or in part, or that are otherwise subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any export license application submitted to the Department, (b) in preparing or filing with the Department any export license application or reexport authorization, or any document to be submitted therewith, (c) in obtaining or using any validated or general export license or other export control document, (d) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and the Regulations.

III. After notice and opportunity for comment, such denial may be made applicable to any person, firm, corporation, or business organization with which either respondent is now or hereafter may be related by affirmation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, or behalf of or in any association with either respondent or any related party, or whereby either respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for either respondent of any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(e) of the Regulations, either respondent may, at any time, appeal this temporary denial order by filing with the Office of Administrative Law Judges, U.S. Department of Commerce, Room H-6716, 14th Street and Constitution Avenue NW., Washington, DC 20230, a full written statement in support of the appeal.

VI. This order is effective immediately and shall remain in effect for 60 days.

VII. In accordance with the provisions of § 388.19(d) of the Regulations, the Department may seek renewal of this temporary denial order by filing a written request not later than 20 days before the expiration date. Either respondent may oppose a request to renew this temporary denial order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of this order.

A copy of this order and of Parts 387 and 388 of the Regulations shall be served upon each respondent and this order shall be published in the **Federal Register.**

Date: April 20, 1988.

William Skidmore,

Assistant Secretary for Export Enforcement.

[FR Doc. 88-9312 Filed 4-27-88; 8:45 am]

BILLING CODE 3510-25-M

Foreign-Trade Zones Board

[Order No. 381]

Approval for Reorganization of Foreign-Trade Zone No. 26, Within the Atlanta, GA, Customs Port of Entry

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the Georgia Foreign-Trade Zone, Inc., Grantee of Foreign-Trade Zone No. 26, has applied to the Board for authority to reorganize its general-purpose zone by deleting the Shenandoah, Georgia, site and relocating the general-purpose zone to a 275-acre parcel adjacent to Atlanta's Hartsfield International Airport, within the Atlanta Customs port of entry;

Whereas, the application was accepted for filing on August 27, 1987, and notice inviting public comment was given in the **Federal Register** on September 10, 1987 (Docket No. 14-87, 52 FR 34266);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the reorganization will improve zone services in the Atlanta area; and,

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisifed, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby orders:

That the Grantee is authorized to reorganize its zone in accordance with the application filed August 27, 1987. The Grantee shall notify the Board for approval prior to the commencement of any manufacturing or assembly operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, DC, this 18th day of April 1988.

Joseph A. Spetrini,

Acting Assistant Secretary of Commerce, for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 88-9438 Filed 4-27-88; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 380]

Authorization to Withdraw Certain "Zone Restricted" Merchandise From Foreign-Trade Subzone 78D, Tennessee Valley Authority, Phipps Bend Site, TN, for Entry Into U.S. Customs Territory

Pursuant to its authority under section 3 of the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81c), the Foreign-Trade Zones Board (the Board) adopts the following order:

After consideration of the petition of the Metropolitan Nashville-Davidson County Port Authority, grantee of Foreign-Trade Zone 78, for authority under Section 3 of the Foreign-Trade Zones Act (19 U.S.C. 81c) to withdraw from Subzone 78D, the Tennessee Valley Authority's Phipps Bend site, Tennessee, for domestic entry, waste and scrap resulting from the dismantling of turbine generator equipment presently in "zone restricted" status (Docket 19-85), the Board approves the petition, finding it to be in the public interest. The withdrawal shall be subject to entry procedures, including the payment of applicable Customs duties.

Signed at Washington, DC, this 20th day of April 1988.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration, Chairman, Committee of Alternates.

Attest.

John J. DaPonte, Jr.,

Executive Secretary.

[FR Doc. 88-9439 Filed 4-27-88; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 14-88]

Foreign-Trade Zone 68, El Paso, TX Request for Manufacturing for SNA Nut Company for Pecan Shelling

Comment period for the above case, involving a request for manufacturing approval for the pecan shelling operation of SNA Nut Company in El Paso (53 FR 8479, 3-15-88) is extended to June 9, 1988, to allow interested parties additional time to comment on the proposal.

Comments in writing are invited during this period. Submissions shall include 5 copies. Material submitted will be available at: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, Washington, DC 20230.

Dated: April 22, 1988.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 88-9440 Filed 4-27-88; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-588-067]

Carbon Steel Plate From Japan; Final Results of Antidumping Duty Administrative Review and Revocation in Part

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review and revocation in part.

SUMMARY: On January 8, 1988, the Department of Commerce published the preliminary results of administrative review and intent to revoke in part on the antidumping finding on carbon steel plate from Japan. The review covers one manufacturer and one third-country reseller of this merchandise to the United States and various periods from July 1977 through September 15, 1983.

We gave interested parties an opportunity to comment on the preliminary results. We received comments from an interested party. Based on our analysis of those comments, the final results of review are unchanged from those presented in the preliminary results for the reviewed firms.

EFFECTIVE DATE: April 28, 1988.

FOR FURTHER INFORMATION CONTACT: Phyllis Derrick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On January 8, 1988, the Department of Commerce ("the Department") published the preliminary results of administrative review and intent to revoke in part (53 FR 547) the antidumping finding on carbon steel plate from Japan (43 FR 22937, May 30, 1978). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of hot-rolled carbon steel plate, 0.1875 inch or more in thickness, over 8 inches in width, not in coils, not pickled, not coated or plated with metal, not clad and not pressed or stamped to non-rectangular shape. Carbon steel plate is currently classifiable under items 607.6620 and 607.6625 of the Tariff Schedules of the United States Annotated.

This review covers one manufacturer and one third-country Canada)—reseller of Japanese carbon steel plate and various periods from July 1, 1977 through September 15, 1983, the date of our tentative determination to revoke in part.

Analysis of Comment Received

We invited interested parties to comment on the preliminary results as provided by § 353.53a(c) of the Commerce Regulations. We received a comment from Coeur d'Alenes.

Comment: Coeur d'Alenes objected to our determination that it did not have the standing required to request a review.

Department's Position: Coeur d'Alenes is not an "interested party" under 19 CFR 353.12(c) and therefore cannot request a review. The company is a steel service center. It buys coiled carbon steel plate from domestic and foreign sources, and then flattens, cuts, and resells it. It does not qualify as a domestic producer of carbon steel plate, nor as an importer. We stated in our preliminary determination that Coeur d'Alenes did not have the standing to request a review because it is not an importer or manufacturer of the product subject to the antidumping finding. We also had no evidence at that time that it is a wholesaler. This company did not participate in the investigation, in any subsequent reviews or in our determination to revoke the antidumping finding. Upon publication of the preliminary results, Coeur d'Alenes asserted that it is a wholesaler, although it did not provide any evidence to support the assertion. We cannot consider new information after the publication of the preliminary results.

Final Results of the Review

Based on our analysis, the final results are the same as those presented in the preliminary results and are listed below:

Manufacturer/exporter	Period	Margin (percent)
A.J. Forsyth & Co., Ltd.	7/77-9/15/83	0
Sumitomo Metal Industries	4/81-6/82	0

A.J. Forsyth requested revocation of the finding and, as provided for in § 353.54(e) of the Commerce Regulations, agreed in writing to an immediate suspension of liquidation and reinstatement of the finding, under circumstances as specified in the written agreement. This revocation in part will apply to all entries of this merchandise exported by A.J. Forsyth and entered, or withdrawn from warehouse, for consumption on or after September 15, 1983, the date of our tentative determination to revoke.

The Department revoked the antidumping finding on carbon steel plate from Japan, effective October 1, 1984 (51 FR 13039, April 17, 1986). This administrative review, covering various periods from July 1977 through September 15, 1983, does not affect the revocation of the antidumping finding. Therefore, we will instruct the Customs Service to continue to liquidate all entries of this merchandise entered, or withdrawn for consumption on or after October 1, 1984, without regard to antidumping duties.

This administrative review, revocation in part, and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)) and §§ 353.53a and 353.54 of the Commerce Regulations (19 CFR 353.53a, 353.54).

Date: April 21, 1988.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 88-9441 Filed 4-27-88; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-402]

Certain Dried Heavy Salted Codfish From Canada; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests from thirteen producers and/or exporters and one importer, the Department of Commerce has conducted an administrative review of the antidumping duty order on certain dried heavy salted codfish from Canada. The review was to cover fourteen producers and/or exporters of this merchandise and the period July 1, 1986 through June 30, 1987. Six companies withdrew their requests for review and, therefore, eight companies are covered by this review. The review indicates the existence of dumping margins for certain firms during the period.

As a result of the review, the Department has preliminarily determined to assess dumping duties on applicable entries.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 28, 1988.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or Phyllis Derrick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-5289/2923.

SUPPLEMENTARY INFORMATION:

Background

On November 6, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 42702) the final results of its last administrative review of the antidumping duty order on certain dried heavy salted codfish from Canada (50 FR 27836, July 8, 1985). Thirteen producers and/or exporters and one importer requested, in accordance with § 353.53a(a) of the Commerce Regulations, that we conduct an administrative review. The review was to cover fourteen producers and/or exporters of this merchandise and the period July 1, 1986 through June 30, 1987. Six companies withdrew their requests for review and, therefore, eight companies are covered by this review. We published a notice of initiation on August 19, 1987 (52 FR 31057). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. Congress is considering legislation to convert the United States to this Harmonized System ("HS"). In view of this, we will be providing both the appropriate *Tariff Scheduled of the United States Annotated* ("TSUSA") item numbers and the appropriate HS item numbers with our product descriptions on a test basis, pending Congressional approval. As with the TSUSA, the HS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

We are requesting petitioners to include the appropriate HS item number(s) as well as the TSUSA number(s) in all new petitions filed with the Department. A reference copy of the proposed Harmonized System schedule is available for consultation at the Central Records Unit, Room B-099, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230. Additionally, all Customs offices have reference copies, and petitioners may contact the Import Specialist at their local Customs office to consult the schedule.

Imports covered by this review are shipments of certain dried heavy salted codfish, including soft-dried codfish from Canada, and are classifiable under TSUSA item 111.2200 and HS item number 0305.62.00. The term "certain dried heavy salted codfish" covers dried heavy salted codfish, which may be whole, or processed by removal of heads, fins, fiscera, scales, vertebral columns, or any combination thereof but not otherwise processed, and not in airtight containers. The review covers eight producers and/or exporters of this merchandise to the United States and the period from July 1, 1986 through June 30, 1987.

United States Price

In calculating United States price, the Department used purchase price as defined in section 772 of the Tariff Act since all sales were made to unrelated purchasers in the United States prior to importation. Purchase price was based on the packed, f.o.b., c.&f., or c.i.f. price to unrelated purchasers in the United States. We made adjustments, where applicable, for inland freight, ocean freight, brokerage, customs duty, discounts, and marine insurance. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, third-country price, or constructed value, all as defined in section 773 of the Tariff Act, as appropriate. When insufficient quantities of such or similar merchandise were sold in the home market during the period to provide a basis for comparison, we used third-country price. When insufficient quantities of such or similar merchandise were sold in either the home market or to third countries, we used constructed value.

Home market price was based on the packed, ex-factory or delivered price to unrelated purchasers. Third-country price was based on the packed c.i.f. or c. and f. prices to unrelated purchasers in various third-countries. We made adjustments, where appropriate, for inland freight, ocean freight, marine insurance, and differences in commissions, packing, credit expenses, direct selling expenses, and physical characteristics of the merchandise. No other adjustments were claimed or allowed.

Constructed value was calculated as the sum of materials, fabrication, general expenses, profit, and U.S. packing. We used ten percent for general expenses since the actual GS&A expenses were below the statutory minimum. We added eight percent as profit since the actual profit was below the statutory minimum.

Preliminary Results of the Review

Six companies withdrew their requests for review: Canada Packers, Pecheries GPS, Pecheries Sheehan, Pecheries Trudel & C, Pecheries Cloridorme, and Pecheries Sale Gaspesien.

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer/exporter	Period	Margin (percent)
Bay Harbour	7/01/86-6/30/87	0
Canadian Saltfish	7/01/86-6/30/87	1.11
Groupe Purdel	7/01/86-6/30/87	0
Island Saltfish	7/01/86-6/30/87	0
Lelievre	7/01/86-6/30/87	2.24
R.E. Newell	7/01/86-6/30/87	0
Sable	7/01/86-6/30/87	0
Sans Souci	7/01/86-6/30/87	3.67

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 8 days of publication. Any hearing, if requested, will be held 35 days after the date of publication or the first workday thereafter. Pre-hearing briefs and/or written comments from interested parties may be submitted not later than 25 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 32 days after the days of publication. The Department will publish the final results of the adminstrative review, including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required for these firms. For the remaining producers/exporters not covered by this review, the cash deposit will continue to be at the latest rate applicable to each of those firms (50 FR 20819, July 8, 1985, and 52 FR 42702, November 6, 1987).

For any future entries of this merchandise from a new exporter not covered in this or prior reviews or in the investigation, whose first shipment occurred after June 30, 1987, and who is unrelated to any reviewed firm or any other previously reviewed firm, a cash deposit of 3.67 percent shall be required. These deposit requirements are effective for all shipments of Candian certain dried heavy salted codfish entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and §353.53a of the Commerce Regulations (19 CFR 353.53a).

Date: April 21, 1988.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 88-9442 Filed 4-27-88; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-047]

Elemental Sulphur From Canada; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Commerce.

ACTION: Notice of final results of antidumping duty administrative.

SUMMARY: On February 3, 1988, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on elemental sulphur from Canada. The review covers seven producers and/or exporters of this merchandise to the United States and generally the period December 1, 1985 through November 30, 1986.

We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received, we are deferring the final results of our review of InterRedec pending receipt of additional information. The remaining final results of our review remain unchanged from those presented in our preliminary results.

EFFECTIVE DATE: April 28, 1988.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255/3601.

SUPPLEMENTARY INFORMATION: .

Background

On February 3, 1988, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 3062) the preliminary results of its administrative review of the antidumping finding on elemental sulphur from Canada (38 FR 35655, December 17, 1973). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of elemental sulphur currently classifiable under item number 415.4500 of the Tariff Schedules of the United States Annotated and Harmonized System item numbers 2503.10.00, 2503.90.00 and 2802.00.00.

The review covers seven producers and/or exporters of Canadian elemental sulphur to the United States and generally the period December 1, 1985 through November 30, 1986.

Analysis of Comments Received

We gave interested parties the opportunity to comment on the preliminary results. We received comments from the petitioner concerning InterRedec.

We are deferring our review of InterRedec pending the receipt of additional information; therefore, we have not addressed the petitioner's comments on InterRedec.

Final Results of the Review

Based on our analysis of the comments received, we are deferring the final results of our review of InterRedec, pending the receipt of additional information. The remaining final results of our review remain unchanged from the preliminary results, and we

determine that the following margins exist:

Producer/exporter	Period of review	Margin (percent)
B.P. Resources Canada	12/85–11/86	[1]5.56
Cities Service Oil & Gas	12/85–11/86	[1]0
Imperial Oil	12/85–11/86	0
Petrogas	12/85–11/86	[1]0
Sulco Chemical	12/85–11/86	3.78
Texaco Canada, Inc	12/85–11/86	0

[1] No shipments during the period; margin from the last review in which there were shipments.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each producer/exporter directly to the Customs Service.

As provided for in section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based upon the above margins shall be required for these firms.

For any shipment from the remaining known producers and/or exporters not covered by this review, the cash deposit will continue to be at rates published in the final results of the last administrative reviews for each of those firms (50 FR 37889, September 18, 1985, 51 FR 43954, December 5, 1986, 51 FR 45153, December 17, 1986, 52 FR 41601, October 29, 1987, and 53 FR 1948, January 15, 1988). For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments of Canadian elemental sulphur occurred after November 30, 1986 and who is unrelated to any reviewed firm or any previously reviewed firm, a cash deposit of 3.78 percent shall be required. These deposit requirements are effective for all shipments of Canadian elemental sulphur entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.53a.

Dated: April 19, 1988.

Joseph A. Spetrini,

Acting Assistant Secretary, for Import Administration.

[FR Doc. 88-9443 Filed 4-27-88; 8:45 am]

BILLING CODE 3510-DS-M

[A-337-001]

Sodium Nitrate From Chile; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of Antidumping Duty Administrative Review.

On September 28, 1987, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on sodium nitrate from Chile. The review covers one exporter of this merchandise to the United States and the period March 1, 1986 through February 28, 1987.

We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received, we have changed the margins from those presented in the preliminary results.

EFFECTIVE DATE: April 28, 1988.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On September 28, 1987, the Department of Commerce ("the Department") pubished in the **Federal Register** (52 FR 36296) the preliminary results of its administrative review of the antidumping duty order on sodium nitrate from Chile (48 FR 12580, March 25, 1983). The Department has now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by this review are shipments of industrial grade sodium nitrate (98 percent or more pure), currently classifiable under item 480.2500 of the Tariff Schedules of the United States Annotated and under item number 3102.50.00 of the Harmonized System.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the respondent, Sociedad Quimica y Minera de Chile, S.A. ("SQM"), and from the petitioner, the Olin Corporation.

Respondent's Comments

Comment 1: The respondent contends that the only proper way of allocating the common costs of mining, crushing, and leaching to nitrates is on the basis of volume produced. The respondent further contends that the Department's methodology is absolutely incorrect because sodium nitrate is the only product that results from these processes. Only after crystallization and prilling are industrial and agricultural nitrates produced.

Department's Position: We disagree. The argument that sodium nitrate is the only product produced is erroneous. The ore that is mined contains sodium nitrates (agricultural and industrial), iodine, and other minerals. Therefore, we consider these products to be joint products and the costs associated with the mining through leaching and solutions are joint rather than common costs.

Initially, in the section 736(c) review, the Department accepted SQM's allocation based on production value (quantity produced times sales value) between nitrates and iodine. Therefore, for subsequent distribution of the joint costs between agricultural and industrial nitrates, the Department used the sales value method of allocation because it provided consistency and an equitable allocation of the joint costs for all the joint products. If the Department were to use the volume produced basis, as suggested by SQM for this review, the cost of production ("COP") attributed to the industrial nitrates could be understated because industrial nitrate is more expensive than agricultural nitrate. Additionally, SQM provided no compelling reason for changing this allocation methodology in this review.

Comment 2: The respondent contends that depreciation, depletion, and Administrative North Expenses are directly related to the production process and should, therefore, be allocated on the basis of volume produced an not on a sales value basis.

Further, the allocation of the depreciation of office equipment in Antofagasta and Santiago should be made on the basis of volume produced at each mine, rather than on a sales value basis between nitrates and iodine. Consequently, the first allocation should be on total tons produced at each mine. The second allocation should be on production value of nitrates to all products. Finally, the third allocation should be based on the volume produced of both agricultural grade and industrial grade at the one plant (not

both plants) to derive the per unit cost of depreciation of office equipment.

Department's Position: We disagree. The allocation method suggested by SQM is inappropriate because: (1) Depreciation and depletion costs are considered to be indirect overhead expenses; and (2) it fails to allocate costs specifically to industrial nitrates, allocating them instead to nitrates in general. Therefore, SQM's method underestimates the cost of depreciation for industrial nitrates. Administrative North Expenses are administrative expenses and as such, the Department also allocated these expenses on a sales value basis.

Comment 3: The respondent contends that the Department should allow the offsets to the Location Expenses because in operating the PV mine, SQM recovers certain costs. For example, the National Health Fund, to which all workers in Chile must contribute, reimburses SQM for its cost of providing medical services to its workrs.

Department's Position: We disagree. At verification, the Department examined the offset to Location Expenses and found them to be payments received for services provided to third parties (refer to verification Exhibit COP 28). SQM failed to substantiate in COP 28 that it received reimbursements from the National Health Fund. Further, we determined that the payments received for services are not related to COP.

Comment 4: The respondent contends that Location Expenses should be allocated between sodium nitrate and iodine on an "added value" basis (the method SQM used to accrue the total location expense) because these expenses all benefit labor and labor is the major component of the added value. Further, SQM contends that the Department used the added value basis in the first administrative review and verified the amount in the second and current reviews.

Department's Position: Location Expenses were found to be general administrative type expenses and as such, they must be allocated on a "sales value" basis.

The Department never allocated these expenses on the "added value" basis. The Department allocated these expenses between iodine and nitrates on a sales value basis. Further, the Department's verification of a company's method of allocation does not amount to acceptance of that allocation method. The Department reserves the right to agree or disagree with the firm's methodology after verification.

Comment 5: The respondent contends that the Department's allocation of selling expenses on the basis of total company-wide sales of all products is incorrect when allocating selling expenses (in the COP calculation). The Department must allocate SQM's selling expenses on the basis of the total domestic sales only. SQM further contends that only ten percent of the selling expenses relates to the promotion of sales abroad.

Department's Position: We agree that the Department incorrectly allocated selling expenses, therefore, we have reallocated these expenses on the basis of total home market sales of industrial nitrates to total company-wide sales. However, we disagree with the respondent's allocation of these expenses on the basis of total home market sales of industrial nitrates to total home market sales (all products), times the total expense, divided by total tons industrial nitrates sold company-wide. The respondent's calculation understated its selling expenses in the COP calculation.

Comment 6: The respondent contends that the Department erroneously assumed that SQM finances its production of sodium nitrate by borrowing from outside sources. During this period of review, SQM financed its production of sodium nitrate solely from its generated profits and, therefore, the Department should not add an amount for finance expense to the COP calculation.

Department's Position: The Department verified that SQM experiences a financial expense, or period expense, as noted in its financial statement. Consequently, a portion of this financial or period expense must be included in the COP calculation for industrial nitrates.

Comment 7: The respondent contends that its sales to related parties in Chile are made on an arm's-length basis. Therefore, they should be included.

Department's Position: The Department generally does not use sales to related buyers in the producer's home market for comparison with United States price, unless it is clearly established to the Department's satisfaction that the sales are at arm's-length. See 19 CFR 353.22(b). SQM has not demonstrated that all its sales to related parties in Chile are at arm's-length. Therefore, we have not used these related party sales in our calculation of home-market prices.

Comment 8: The respondent contends that the amount of indirect selling expenses the Department imputed to its sales to the United States vastly exceeds any portion of selling expenses and Administrative South Expenses that it incurs on behalf of those sales.

Department's Position: At verification SQM was requested to allocate an amount for indirect selling expenses incurred on its sales to the United States. SQM did not comply with the Department's request. As a result, the Department used best information otherwise available.

Comment 9: The respondent contends that freight equalization costs, incurred on certain U.S. sales should be allocated to all sales because they are warehouse expenses.

Department's Position: We disagree. At verification, the freight equalization expenses included in the indirect selling expenses calculation were found to be additional freight expenses incurred on certain sales as a result of stock-outs at the customer's usual warehouse. Consequently, we determined this expense to be directly related to the sales in question.

Comment 10: The respondent contends that the Department should disregard the freight equalization expense because of the fire that destroyed their Chesapeake warehouse. This fire forced them to supply customers from other warehouses. As a result, SQM incurred extraordinary freight costs that would have been totally unnecessary had the warehouse not been destroyed. In particular, the Department should disregard the figure in column 26.1 of the ESP data base. These costs are recapitulated in Exhibit 35.1 that was submitted to the Department by letter dated July 1, 1987.

Department's Position: SQM argues that freight equalization costs (mentioned in number 9 above) incurred on certain U.S. sales are warehouse expenses. Here, SQM argues that these same expenses are extraordinary freight costs as a result of a warehouse fire.

We disagree. Nowhere in SQM's response or at verification did SQM explain that the freight expense was incurred solely because of the warehouse fire. Additionally, SQM failed to identify and substantiate that certain freight expenses were incurred solely as a result of extraordinary events. It is incumbent on SQM to identify those expenses separately. The Department must rely on the accuracy, completeness, and clarity of the submitted data. For this reason and because SQM has a history of freight equalization expenses, the Department will not change its analysis for the final results.

Comment 11: The respondent contends that for fifteen U.S. sales, the Department should not have deducted

the freight equalization expense in the calculation of U.S. price.

Department's Position: We disagree. By letter dated August 14, 1987, SQM identified these freight adjustments as freight expenses that were never billed. The Department considers these as incurred expenses, and the fact that they have not been billed to date is irrelevant to these proceedings.

Comment 12: The respondent contends that the Department erroneously included three of sales in our calculation of U.S. price: (1) Agricultural-grade nitrates that were sold as industrial-grade ("product substitution"); (2) certain sales that were made to Canada and Mexico; and (3) product damaged by a fire at the warehouse.

Department's Position: We agree and have eliminated these sales from our calculation because: (1) Agricultural-grade nitrates are not covered by the order; (2) Canadian and Mexico sales are not sales to the United States; and (3) the reported sale of damaged merchandise actually never occurred during the period. We note that the sales to Mexico and Canada were not explained in the narrative response nor brought to our attention until after the preliminary. Further, we are satisfied that the reported sale of damaged merchandise never occurred during the period.

Petitioner's Comment: The petitioner contends that the Department understated the unit value of SQM's COP of sodium nitrate, because it appears that SQM allocated the crystallization expenses by the ratio of the agricultural-grade product to the industrial-grade product. Instead, petitioner contends that these expenses should not be allocated between the two grades on the basis of relative volume or dollar value. This approach to the allocation of these expenses serves to understate the expense allocated to industrial-grade nitrate.

Department's Position: This is a moot point because crystallization is a direct expense. Therefore, there is no allocation between agricultural-grade and industrial-grade nitrates.

Final Results of the Review

Based on our analysis of the comments received, we have revised our preliminary results for Sociedad Quimica y Minera de Chile, S.A., and we determine that a weighted-average margin of 1.32 percent exists for the period March 1, 1986 through February 28, 1987.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for in section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margin shall be required for SQM.

For any future entries of this merchandise from a new exporter, not covered in this or prior administrative reviews, whose first shipments occurred after February 28, 1987 and who is unrelated to any reviewed firm or any previously reviewed firm, a cash deposit of 1.32 percent shall be required. These deposit requirements are effective for all shipments of Chilean sodium nitrate entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and §§ 353.53a of the Commerce Regulations (19 CFR 353.53a).

Dated: April 20, 1988.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 88-9447 Filed 4-27-88; 8:45 am]

BILLING CODE 3510-02-M

[A-427-044]

Stainless Steel Wire Rods From France; Amended Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of amended final results of Antidumping Duty Administrative Review.

SUMMARY: On November 21, 1983, the United States Court of International Trade remanded the second administrative review to the Department of Commerce with instructions to verify the data submitted by the only respondent Ugine Aciers (currently Ugine-Savoie), for the period July 1, 1980 through June 30, 1981. We have completed the verification. We provided interested parties an opportunity to comment on the amended final results. We received no comments.

Based on our verification and analysis, this notice of amended results changes the margin calculated in the final results of review from 0.30 to 0.70 percent.

EFFECTIVE DATE: April 28, 1988.

FOR FURTHER INFORMATION CONTACT: Knobae C.H. Brooks or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington DC 20230, Telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On January 21, 1983, the Department of Commerce ("the Department") published in the **Federal Register** the final results of the administrative review of the antidumping finding on stainless steel wire rods from France for the period July 1, 1980 through June 30, 1981 (48 FR 2808). On January 25, 1983, Al Tech Specialty Steel Corporation, Armco Incorporated, Carpenter Technology Corporation, and Crucible Stainless Steel Division of Colt Industries Incorporated, filed a complaint in the United States Court of International Trade, challenging the Department's final results of administrative review and specifically claiming that the Department should have verified the information submitted in the administrative review by the only respondent, Ugine Aciers (currently Ugine-Savoie). IN a November 21, 1983 opinion, the court held that the Department should have verified this information and remanded the case to the Department to verify the respondent's data. *At Tech Specialty Steel Corporation, et. al. v. United States,* 575 F. Supp. 1277 (CIT, November 1983). On October 3, 1984, the Court of Appeals for the Federal Circuit affirmed the CIT decision.

Amended Final Results of the Review

Based on our verification and analysis, the margin of 0.30 percent calculated in our final results has been changed. The correct rate for Ugine Aciers (currently Ugine-Savoie) for the period July 1, 1980 through June 30, 1981 is 0.70 percent.

There is in effect an injunction against liquidation of entries of stainless steel wire rods from France covered by the January 21, 1983 notice of final results. The CIT's order provides that this injunction will expire automatically 30 days after publication of this notice. The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

This amendment to the administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675 (a)(1)) and the November 21, 1983, order of the CIT.

Dated: April 20, 1988.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 88-9448 Filed 4-27-88; 8:45 am]

BILLING CODE 3510-05-M

[A-588-041]

Synthetic Methionine From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of Antidumping Duty Administrative Review.

SUMMARY: On March 10, 1988, the Department of Commerce published the preliminery results of its administrative review of the antidumping finding on synthetic methionine from Japan. The review covers one manufacturer/exporter and one third-country reseller of this merchandise to the U.S. and the period July 1, 1986 through June 30, 1987.

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results of review–

EFFECTIVE DATE: April 28, 1988.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3601.

SUPPLEMENTARY INFORMATION:

Background

On March 30, 1988, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 7775) the preliminary results of its administrative review of the antidumping finding on synthetic methionine from Japan (38 FR 18392, July 10, 1973). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of synthetic methionine currently classifiable under Tariff Schedules of the United States Annotated item number 425.0430 and Harmonized System item number 2922.42.50.

The review covers one manufacturer/exporter and one third-country reseller of Japanese synthetic methionine to the U.S. and the period July 1, 1986 through June 30, 1987.

Final Results of the Review

We invited interested parties to comment on the preliminary results of review. We received no comments. Based on our analysis, the final results of our review are the same as those presented in the preliminary results of review, and we determine that the following margins exists for the period July 1, 1986 through June 30, 1987:

Manufacturer/Exporter/Third-Country Reseller (Country)	Margin (percent)
Nippon Soda/Mitsui	[1] 3.35
Nippon Soda/Mitsui/Central Soya (Canada)	[1] 79.00

[1] No shipments during the period; margins based on the last period in which there were shipments.

As provided for in section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required for those firms. For any shipments from the remaining known manufacturers, exporters, and third-country resellers not covered by this review, the cash deposit will continue to be at the rates published in the final results of the last administrative review for each of those firms (48 FR 55153, December 9, 1983, 52 FR 10600, April 2, 1987, and 52 FR 38953, October 20, 1987).

For any future entries of this merchandise from a new exporter, not covered in this or prior administrative reviews, whose first shipments of Japanese synthetic methionine occurred after June 30, 1987 and who is unrelated to any of the reviewed firms or any previously reviewed firm, a cash deposit of 3.35 percent shall be required. This is in accordance with our practice of not using the most recently reviewed rate as a basis for a cash deposit for new shippers when we have based the most recent rate on best information available.

These deposit requirements are effective for all shipments of Japanese synthetic methionine entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.53a.

Dated: April 20, 1988.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 88-9449 Filed 4-27-88; 8:45 am]

BILLING CODE 3510-DS-M

Short-Supply Review on Certain Stainless Steel; Request for Comments

AGENCY: Import Administration/International Trade Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short-supply determination under Article 8 of the U.S.-Brazil, U.S.-Spain, and U.S.-EC Arrangements on Certain Steel Products, and Paragraph 8 of the U.S.-Japan Arrangement on Certain Steel Products, with respect to certain hot-rolled, stainless steel.

DATE: Comments must be submitted on or before May 9, 1988.

ADDRESS: Send all comments to Nicholas C. Tolerico, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230, (202) 377-0159.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S.-Brazil, U.S.-Spain, and U.S.-EC Arrangements on Certain Steel Products and Paragraph 8 of the U.S.-Japan Arrangement on Certain Steel Products provides that if the U.S. determines that because of abnormal supply or demand factors, the U.S. steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product or products.

We have received a short-supply request for various grades of hot-rolled, stainless steel ranging from a 0.07 to 0.25 inch in thickness and from 26.5 to 61.0 inches in thickness.

Any party interested in commenting on this request should send written comments as soon as possible, and no later that May 9, 1988. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments on this request in a public file. Anyone submitting business proprietary informatoin should clearly identify that portion of their submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Import Administration, U.S. Department of Commerce, Room B-099 at the above address.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

April 22, 1988.

[FR Doc. 88-9452 Filed 4-27-88; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-066]

Impression Fabric of Man-Made Fiber From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On February 24, 1988, the Department of Commerce published the preliminary results of its antidumping duty administrative review on impression fabric of man-made fiber from Japan. The review covers two exporters of this merchandise to the United States and the period May 1, 1986 through April 30, 1987.

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results.

EFFECTIVE DATE: April 28, 1988.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-5255/3601.

SUPPLEMENTARY INFORMATION:

Background

On February 24, 1988, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 5437) the preliminary results of its administrative review of the antidumping finding on impression fabric of man-made fiber from Japan (43 FR 22344, May 25, 1978). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by this review are shipments of impression fabric of man-made fiber, classifiable under numbers 338.5001, 338.5002, and 347.6030 of the Tariff Schedules of the United States Annotated and Harmonized System item numbers 5407.41.00 and 5806.32.10.

The review covers two exporters of Japanese impression fabric of man-made fiber to the United States and the period May 1, 1986 through April 30, 1987.

Final Results of the Review

We invited interested parties to comment on the preliminary results. We received no comments. Based on our analysis, the final results of review are the same as those presented in the preliminary results of review and we determine that the following margins exist for the period May 1, 1986 through April 30, 1987:

Exporters	Margin (percent)
Mitsui & Co., Ltd.	[1] 7.5
Nissei Co., Ltd.	[1] 10.12

[1] No shipments during the period; margins from the last review in which there were shipments.

As provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based upon the above margins shall be required for these firms. For any shipments from the remaining known exporters not covered in this review, a cash deposit will continue to be at the rates published in the final results of the last administrative review for each of those firms (49 FR 19560, May 8, 1984, 52 FR 41601, October 29, 1987).

For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after April 30, 1987 and who is unrelated to any review firm or any previously reviewed firm, a cash deposit of 10.12 percent shall be required. These deposit requirements are effective for all shipments of Japanese impression fabric of man-made fiber entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and will remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.53a.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

Date: April 21, 1988.

[FR Doc. 88-9444 Filed 4-27-88; 8:45 am]

BILLING CODE 3510-DS-M

[A-427-009]

Industrial Nitrocellulose From France; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On March 10, 1988, the Department of Commerce ("the Department") published the preliminary results of its administrative review and tentative determination to revoke the antidumping duty order on industrial nitrocellulose from France. The review covers the only known manufacturer and/or exporter of this merchandise to the United States, and the periods August 1, 1984 through July 31, 1985 and August 1, 1985 through July 31, 1986. The review indicates no dumping margins for the period August 1, 1984 through July 31, 1985 and *de minimis* dumping margins for the period August 1, 1985 through July 31, 1986.

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results.

EFFECTIVE DATE: April 28, 1988.

FOR FURTHER INFORMATION CONTACT: J. David Dirstine or Phyllis Derrick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On March 10, 1988, the Department published in the **Federal Register** (53 FR 7773) the preliminary results of its administrative review and tentative determination to revoke the antidumping duty order on industrial nitrocellulose from France (48 FR 36303, August 10, 1983). The Department has

now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of industrial nitrocellulose containing between 10.8 and 12.2 percent nitrogen. Industrial nitrocellulose is a dry, white, amorphous synthetic chemical produced by the action of nitric acid on cellulose. The product comes in several viscosities and is used to form films in lacquers, coatings, furniture finishes and printing inks. These imports are currently classifiable under TSUSA item 445.2500 and under HS item numbers 3912.20.00 and 3912.00.

The review covers Societe Nationale des Poudres et Explosifs ("SNPE"), the only known manufacturer and/or exporter of French industrial nitrocellulose to the United States, and the period August 1, 1984 through July 31, 1986.

Final Results of the Review

We invited interested parties to comment on the preliminary results. We received no comments. Based on our analysis, the final results of review are the same as those presented in the preliminary results of review. We determine that the following margins exist for Societe Nationale des Poudres et Explosifs:

Period	Margin (percent)
8/1/84-7/31/85	0
8/1/85-7/31/86	0.07

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service. Further, as provided for by section 751(a)(1) of the Tariff Act, since the margin for SNPE is 0.07 percent and, therefore, *de minimis* for cash deposit purposes, the Department shall not require a cash deposit of estimated antidumping duties for SNPE. For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after March 10, 1988 and who is unrelated to the reviewed firm, no cash deposit shall be required. These cash deposit requirements are effective for all shipments of French industrial nitrocellulose, entered or withdrawn from warehouse, for consumption on or after the date of publication of this notice and will remain in effect until the final results of the next administrative review.

This administrative review and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1), (c) and §§ 353.53a and 353.54 of the Commerce Regulations (19 CFR 353.53a, 353.54).

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

Date: April 21, 1988.

[FR Doc. 88-9445 Filed 4-27-88; 8:45 am]

BILLING CODE 3510-DS-M

[A-428-061]

Precipitated Barium Carbonate From the Federal Republic of Germany; Preliminary Results of Antidumping Duty Administrative Review and Intent To Revoke in Part

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review and intent to revoke in part.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping duty order on precipitated barium carbonate from the Federal Republic of Germany. The review covers one manufacturer/exporter of this merchandise to the United States and the period July 1, 1986 through April 3, 1987. The review indicates the existence of a *de minimis* dumping margin for the firm during the period.

As a result of the review, the Department intends to revoke the order with respect to Kali-Chemie AG.

Interested parties are invited to comment on these preliminary results and intent to revoke in part.

EFFECTIVE DATE: April 28, 1988.

FOR FURTHER INFORMATION CONTACT: Richard P. Bruno or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On January 4, 1988, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 47) the final results of its last administrative review of the antidumping duty order on precipitated barium carbonate from the Federal Republic of Germany (46 FR 32884, June 25, 1981). Both the petitioner and respondent requested in accordance with § 353.53a(a) of the Commerce Regulations that we conduct an administrative review. We published a notice of initiation on July 17, 1987 (52 FR 27036). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. Congress is considering legislation to convert the United States to this Harmonized System ("HS"). In view of this, we will be providing both the appropriate *Tariff Schedule of the United States Annotated* ("TSUSA") item numbers and the appropriate HS item numbers with our product description on a test basis, pending Congressional approval. As with the TSUSA, the HS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

We are requesting petitioners to include the appropriate HS item numbers as well as the TSUSA item numbers in all new petitions filed with the Department. A reference copy of the proposed Harmonized System schedule is available for consultation in the Central Records Unit, Room B-099, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Additionally, all Customs offices have reference copies, and petitioners may contact the Import Specialist at their local Customs office to consult the schedule.

Imports covered by the review are shipments of precipitated barium carbonate, a chemical compound ($BaCo_3$), currently classifiable under TSUSA item 472.0600 and under HS item 2836.60.00.

The review covers one manufacturer/exporter of West German precipitated barium carbonate to the United States, Kali-Chemie AG, and the period from July 1, 1986 through April 3, 1987.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the delivered, packed price to unrelated purchasers in the United States.

All sales to the United States were made through a related sales agent in the United States to an unrelated

purchaser prior to the date of importation. The Department determined that purchase price was the appropriate indicator of United States price based on the following elements:

1. The merchandise in question was shipped directly from the manufacturer to the unrelated buyer, without being introduced into the inventory of the related selling agent;

2. This was the customary commercial channel for sales of this merchandise between the parties involved; and

3. The related selling agent located in the United States acted only as a processor of sales-related documentation and a communication link with the unrelated U.S. buyer.

Where all the above elements are met, we regard the routine selling functions of the exporter as having been merely relocated geographically from the country of exportation to the United States, where the sales agent performs them. Whether these functions are performed in the United States or abroad does not change the substance of the transactions or the functions themselves.

We made adjustments, where applicable, for foreign inland freight, ocean freight, marine insurance, U.S. duty, forwarding fees, U.S. clearance and brokerage charges, U.S. inland freight, and transloading. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Home market price was based on either the delivered or ex-factory, packed price with adjustments, where applicable, for inland freight, rebates, prompt payment discounts, technical services, and differences in packing costs. We denied a claimed adjustment for "other expenses" because it was not properly quantified. No other adjustments were claimed or allowed.

Preliminary Results of Review and Intent to Revoke in Part

As a result of our comparison of United States price to foreign market value, we preliminary determine that a *de minimis* margin of 0.01 percent exists for Kali-Chemie Ag for the period July 1, 1986 through April 3, 1987.

Therefore, we intend to revoke the antidumping duty order with respect to this merchandise manufacturered and exported by Kali-Chemie AG. Kali-Chemie had no margins for the period July 1, 1981 through June 30, 1986 and made all sales at not less than fair value during the period July 1, 1986 through April 3, 1987, the date of our tentative determination to revoke in part with regard to Kali-Chemie.

As provided for in § 353.54(e) of the Commerce Regulations, Kali-Chemie AG has agreed in writing to an immediate suspension of liquidation and reinstatement in the order under circumstances as specified in the written agreement. If the order is revoked with respect to Kali-Chemie AG, it shall apply to unliquidated entries of West German precipitation barium carbonate manufactured and exported to the United States by Kali-Chemie AG and entered, or withdrawn from warehouse, for consumption on or after April 3, 1987.

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 8 days of publication. Any hearing, if requested, will be held 35 days after the date of publication, or the first workday thereafter. Pre-hearing briefs and/or written comments from interested parties may be submitted not later than 25 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 32 days after the date of publication.

The Department will publish the final results of the administrative review, including the results of its analysis of any such comments or hearing. The Department shall instruct the Custom Service to assess antidumping duties on all appropriate entries.

For any future shipments from the one remaining known manfacturer/exporter not covered in this review, the cash deposit will continue to be the rate published in the final results of the last administrative review for that firm (50 FR 16330, April 25, 1985).

For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after April 3, 1987 and who is unrelated to the reviewed firm or any previously reviewed firm, no cash deposit shall be required. These deposit requirements are effective for all shipments of West German precipitated barium carbonate entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)) and § 353.53a and 353.54 of the Commerce Regulations (19 CFR 353.53a, 353.54).

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

Date: April 20, 1988.

[FR Doc. 88-9446 Filed 4-27-88; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-017]

Bricks From Mexico; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on bricks from Mexico. We preliminarily determine the total bounty or grant to be zero or *de minimis* for 25 firms and 3.76 percent *ad valorem* for all other firms during the period July 1, 1984 through December 31, 1984. For the period January 1, 1985 through December 31, 1985, we preliminarily determine the total bounty or grant to be zero or *de minimis* for 26 firms and 5.11 percent *ad valorem* for all other firms. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: April 28, 1988.

FOR FURTHER INFORMATION CONTACT: Jean Carroll or Bernard Carreau, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On December 2, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 43418) the final results of its last administrative review of the countervailing duty order on bricks from Mexico (49 FR 19564, May 8, 1984). On May 29, 1986, the Mexican government requested in accordance with 19 CFR 355.10 an administrative review of the order. We published the initiation of the administrative review on June 23, 1986. The Department has now conducted this administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. Congress is considering legislation to convert the United States to this Harmonized System ("HS"). In view of this, we will be providing both the appropriate *Tariff Schedules of the United States Annotated* ("TSUSA") item numbers and the appropriate HS item numbers with our product descriptions on a test basis, pending Congressional approval. As with the TSUSA, the HS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

We are requesting petitioners to include the appropriate HS item number(s) as well as the TSUSA item number(s) in all new petitions filed with the Department. A reference copy of the proposed Harmonized System schedule is available for consultation at the Central Records Unit, Room B-099, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Additionally, all Customs offices have reference copies, and petitioners may contact the Import Specialist at their local Customs office to consult the schedule.

Imports covered by this review are shipments of Mexican bricks. Such merchandise is currently classifiable under TSUSA item numbers 532.1120 and 532.1140. These products are currently classifiable under HS item number 6904.10.00-0. We invite comments from all interested parties on this HS classification. The review covers the period from July 1, 1984 through December 31, 1985 and 12 programs.

Analysis of Programs

(1) FOMEX

The Fund for the Promotion of Exports of Mexican Manufactured Products ("FOMEX") is a trust of the Mexican Treasury Department, with the National Bank of Foreign Trade acting as trustee for the program. The National Bank of Foreign Trade, through financial institutions, makes FOMEX loans available at preferential rates to manufacturers and exporters for two purposes: Pre-export financing and export financing. We consider both pre-export and export FOMEX loans to be export bounties or grants since these loans are given only on merchandise destined for export. We found that the annual interest rate that financial institutions charged borrowers for peso-denominated FOMEX pre-export financing outstanding during the period of review ranged from 17.50 to 39.60 percent. The annual interest rate for dollar-denominated FOMEX export financing ranged from 6.38 to 9.29 percent during the period of review.

We consider the benefit from loans to occur when the interest is paid. Interest on FOMEX pre-export loans is paid at maturity, and those that matured during the period of review were obtained between May 1984 and October 1985. Since interest on FOMEX export loans is pre-paid, we calculated benefits from all FOMEX export loans received during the period of review.

We have sufficient information to measure effective interest rates for peso-denominated loans and for 1985 dollar-denominated loans. (*See Final Results of Administrative Review on Fabricated Automotive Glass from Mexico* (51 FR 44652, December 11, 1986).) To determine the effective interest rate benchmark for peso loans obtained in 1984, we calculated an average annual effective rate from data reported by the Banco de Mexico in its monthly publication, *Indicadores Economicos* ("I.E.").

In 1985, the Banco de Mexico stopped publishing data on nominal and effective interest rates. Therefore, we calculated the average spread between the Costo Porcentual Promedio (CPP) rates, which is the average cost of short-term funds to banks, and the I.E. effective rates for the period 1982 through 1984, the only period for which we have I.E. rates. The effective interest rate benchmark for 1985 is the sum of this average spread and the average CPP rate for 1985. In this way we calculated a benchmark of 73.78 percent for pre-export peso loans obtained in 1984, and 86.31 percent for pre-export peso loans obtained in 1985.

To determine the effective interest rate benchmark for 1985 dollar loans, we used the quarterly weighted-average effective interest rates published in the *Federal Reserve Bulletin*, which was 12.85 percent in 1985. In 1984, no comparable data on effective interest rates was published in the Federal Reserve Bulletin. Therefore, we used an average nominal interest rate benchmark from the same publication, 13.97 percent, and compared it to the nominal preferential interest rate.

Six exporters of this merchandise used this program during the period of review. Because we found that the exporters were able to tie their FOMEX loans to exports to specific countries, we measured the benefit only from FOMEX loans tied to U.S. shipments. We allocated the FOMEX benefits over U.S. shipments. We then weight-averaged the result by each company's proportion of exports of this merchandise to the United States during the period of review, excluding those firms with zero or *de minimis* aggregate benefits. For the period July 1 through December 31, 1984, we preliminarily determine the benefit from FOMEX to be 2.70 percent *ad valorem* for all firms with aggregate benefits above *de minimis*. For the period January 1 through December 31, 1985, we preliminarily determine the benefit from FOMEX to be 3.83 percent *ad valorem* for all firms with aggregate benefits above *de minimis*.

In October 1987, the Banco de Mexico changed the interest rates on FOMEX peso loans to 91.00 percent and on dollar loans to 8.00 percent. To calculate the FOMEX benefit for cash deposit purposes, we followed the same methodology used in calculating assessment rates. For peso loans we used as our benchmark the sum of the most recent available CPP rate, *i.e.*, October 1987, and the average 1982–1984 spread between the CPP and the *I.E.* effective rates. For dollar loans we used as our benchmark the October 1987 weighted-average effective interest rate from the *Federal Reserve Bulletin*. On this basis, we preliminarily find, for purposes of cash deposits of estimated countervailing duties, a FOMEX benefit of 1.10 percent *ad valorem* for all firms with aggregate benefits above *de minimis*.

(2) FOGAIN

The Guarantee and Development Fund for Medium and Small Industries ("FOGAIN") provides long-term loans to all small and medium-size firms in Mexico. The interest rates available under the program vary depending on whether a small or medium-size business has been granted priority status, and whether a business is located in a zone targeted for industrial growth. Firms may receive variable-rate or fixed-rate loans under this program. Although FOGAIN loans are available to all small and medium-size firms in Mexico, regardless of the type of industry or location, some companies get more beneficial rates than others. Therefore, to the extent that this program provides financing at rates below the least beneficial rate available under FOGAIN, we consider it to be countervailable.

Eight firms had FOGAIN loans on which interest payments were due during the period of review. We treated each of the variable-rate loans as a series of short-term loans. For both the variable-rate and fixed-rate loans, we used as our benchmarks the least beneficial interest rates in effect for

each FOGAIN loan payment made during the period of review. For fixed-rate loans, we applied the long-term loan methodology outlined in the Subsidies Appendix to the notice of *Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order* (49 FR 18006, April 26, 1984).

We allocated the benefits from each loan over each company's total sales to all markets. Two of the eight firms with FOGAIN loans had *de minimis* aggregate benefits. For the remaining six, we weight-averaged the resulting benefits by each company's proportion of exports of this merchandise to the United States during the period of review, excluding those firms with zero or *de minimis* aggregate benefits. For the period July 1, 1984 through December 31, 1984, we preliminarily determine the benefit from this program to be 0.78 percent *ad valorem* for all firms with aggregate benefits above *de minimis*. For the period January 1, 1985 through December 31, 1985, we preliminarily determine the benefit from this program to be 0.85 percent *ad valorem* for all firms with aggregate benefits above *de minimis*.

(3) CEPROFI

Certificates of Fiscal Promotion ("CEPROFI") are tax certificates used to promote the goals of the National Development Plan ("NDP"). They are granted in conjunction with investments in designated industrial activities or geographic regions and can be used to pay a variety of federal tax liabilities. Article 25 of the decree that established the authority for issuing CEPROFI's, published in the *Diario Oficial* on March 6, 1979, requires each recipient to pay a four-percent supervision fee. The four-percent supervision fee is "paid in order to qualify for, or to receive," the CEPROFI's. Therefore, it is an allowable offset, as defined in section 771(6)(A) of the Tariff Act, from the gross bounty or grant.

Brick firms in Mexico can receive CEPROFI benefits under three provisions: "Category I," which makes CEPROFI certificates available for the manufacture and processing of construction and capital goods; "Category II," which makes CEPROFI certificates available for particular industrial activities; and a third provision, which makes CEPROFI certificates available for the purchase of Mexican-made equipment.

The Department held in the *Final Affirmative Countervailing Duty Determination on Bricks from Mexico* (49 FR 19564, May 8, 1984) that CEPROFI certificates granted for the purchase of Mexican-made equipment are not countervailable since such certificates are available to any company that purchases Mexican-made equipment. We consider the other two types of CEPROFI certificates to be domestic bounties or grants because they are available only to certain industries. Two firms received tax certificates from the Category I and Category II CEPROFI provisions in 1984, and only one firm received such certificates in 1985. We allocated each firm's benefit, less the four-percent supervision fee, over the total value of each firm's sales to all markets during the period of review. We then weight-averaged the results by each firm's proportion of total exports of this merchandise to the United States during each of these years, excluding those firms with zero or *de minimis* aggregate benefits. For the period July 1 through December 31, 1984, we preliminarily determine the benefit from this program to be 0.13 percent *ad valorem* for all firms with aggregate benefits above *de minimis*. For the period January 1, 1985 through December 31, 1985, we preliminarily determine the benefit from this program to be 0.23 percent *ad valorem*.

(4) FONEI

The Fund for Industrial Development ("FONEI"), administered by the Banco de Mexico, is a specialized financial development fund that provides long-term loans at below-market rates. FONEI loans are available under various provisions having different eligibility requirements. The plant expansion provision is designed for the creation, expansion, or modernization of enterprises in order to promote the efficient production of goods capable of competing in the international market or to meet the objectives of the NDP, which include industrial decentralization. We consider this FONEI loan provision to confer a bounty or grant because it restricts loan benefits to those enterprises located outside of Zone IIIA. Three firms had variable-rate, peso-denominated FONEI loans for plant expansion or modernization outstanding during the period of review. One firm, Productos de Barro, S.A. de C.V., received a FONEI loan for the period of review, but did not report the payment schedule on its loan. Therefore, based on the best information available, we have applied to that firm the highest 1984 and 1985 company-specific FONEI benefit from any Mexican case, which is 0.525 percent *ad valorem* in 1984 and 0.419 percent *ad valorem* in 1985.

We treated these variable-rate loans as a series of short-term loans. To calculate the benefit, we used the same benchmarks as for the FOMEX peso-denominated pre-export loans and compared them to the preferential interest rates in effect for each FONEI loan payment made during the period of review. We allocated the benefits over each firm's total sales to all markets during the period of review. We then weight-averaged the resulting benefits by each firm's proportion of exports to the United States during the period of review, excluding those firms with zero or *de minimis* aggregate benefits. We preliminarily determine the benefit from this program to be 0.15 percent *ad valorem* for the period July 1, 1984 through December 31, 1984, and 0.20 percent *ad valorem* for the period January 1, 1985 through December 31, 1985.

(5) Other Programs

We also examined the following programs and preliminarily find that exporters of bricks did not use them during the review period:

(A) Article 15 or 94 loans;
(B) CEDI;
(C) NDP Discounts;
(D) Delay of payments on loans;
(E) Delay of payments to PEMEX of fuel charges;
(F) Import duty reductions and exemptions;
(G) State Tax incentives; and
(H) Bancomext loans.

Firms Not Receiving Benefits

We preliminarily determine that the following firms received zero or *de minimis* benefits during the period July 1, 1984 through December 31, 1984:

1. Arturo Cavazos Jacques
2. Blanca Salvidar Gonzalez
3. Bloquera Rio Bravo
4. Bloques, Ladrillos y Materiales de Piedras Negras
5. Elias Martinez Ledezma
6. Ferretra y Maderera La Popular
7. Fidel Contreras Varela
8. Hipolito Martinez Martinez
9. Jose Adrian Risoul
10. Ladrillera Cantu
11. Ladrillera El Jaboncillo
12. Ladrillera Guadalupana
13. Ladrillera Industrial, S.A. de C.V.
14. Ladrillera La Azteca
15. Ladrillera La Joya, S.A. de C.V.
16. Ladrillera Reynosa
17. Ladrillera San Juan
18. Ladrillera Santa Fe
19. Ladrillos Reynosa
20. Lucio Garza Lucero
21. Luis de Hoyos Villareal
22. Materiales Salinas, S.A.
23. Mosaicos El Aguila, S.A.
24. Productos de Barro La Zacatosa

25. Ricardo Francisco Garza Vela

For the period January 1, 1985 through December 31, 1985, we preliminarily determine that 26 firms (Ladrillera Monterrey and the 25 firms listed above) received zero or *de minimis* benefits.

Preliminary Results of Review

As a result of our review, we preliminarily determine the total bounty or grant during the period July 1, 1984 through December 31, 1984 to be zero or *de minimis* for the 25 firms listed above, and 3.76 percent *ad valorem* for all other firms (including Ladrillera Monterrey). For the period January 1, 1985 through December 31, 1985, we preliminarily determine the total bounty or grant to be zero or *de minimis* for Ladrillera Monterrey and the 25 firms listed above, and 5.11 percent *ad valorem* for all other firms.

The Department intends to instruct the Customs Service to liquidate, without regard to countervailing duties, shipments of this merchandise from the 25 firms listed above, and to assess countervailing duties of 3.76 percent of the f.o.b. invoice price on shipments from all other firms (including Ladrillera Monterrey) exported on or after July 1, 1984 and on or before December 31, 1984. We will also instruct Customs to liquidate, without regard to countervailing duties, shipments of this merchandise from Ladrillera Monterrey and the 25 firms listed above, and to assess countervailing duties of 5.11 percent of the f.o.b. invoice price on shipments from all other firms exported on or after January 1, 1985 and on or before December 31, 1985.

The Department intends to instruct the Customs Service to waive cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on shipments of this merchandise from Ladrillera Monterry and the 25 firms listed above and, due to the change in the FOMEX interest rates, to collect a cash deposit of estimated countervailing duties of 2.38 percent of the f.o.b. invoice price on shipments from all other firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. This deposit requirement and waiver shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday following. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.10.

Joseph A. Spetrini,

Acting Assistant Secretary, Import Administration.

Date: April 22, 1988.

[FR Doc. 88-9450 Filed 4-27-88; 8:45 am]

BILLING CODE 3510-DS-M

[C-427-016]

Industrial Nitrocellulose From France; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On March 10, 1988, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on industrial nitrocellulose from France. We have now completed that review and determine the net subsidy during the period January 1, 1984 through December 31, 1985 to be *de minimis*.

EFFECTIVE DATE: April; 28, 1988.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Bernard Carreau, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On March 10, 1988, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 7776) the preliminary results of its administrative review and tentative determination to revoke the countervailing duty order on industrial nitrocellulose from France (48 FR 28521, June 22, 1983). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of French industrial nitrocellulose containing between 10.8 percent and 12.2 percent nitrogen, not explosive grade nitrocellulose which contains over 12.2 percent nitrogen. Industrial nitrocellulose is a dry, white, amorphous, synthetic chemical produced by the action of nitric acid on cellulose. Industrial nitrocellulose comes in several viscosities and is used to form films in lacquers, coatings, furniture finishes and printing ink. Such merchandise is currently classifiable as cellulosic plastic materials, other than cellulose acetate, under item number 445.2500 of the Tariff Schedules of the United States Annotated and item number 3912.20.00 of the Harmonized System.

Final Results of Review

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. We received no comments.

As a result of our review, we determine the net subsidy to be 0.26 percent *ad valorem* for the period January 1, 1984 through December 31, 1984, and 0.10 percent *ad valorem* for the period January 1, 1985 through December 31, 1985. The Department considers any rate less than 0.50 percent *ad valorem* to be *de minimis*.

Therefore, the Department will instruct the Customs Service to liquidate, without regard to countervailing duties, all unliquidated entries of this merchandise exported on or after January 1, 1984 and on or before December 31, 1985.

Further, the Department will instruct the Customs Service to waive deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit waiver shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.10.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

Dated: April 22, 1988.

[FR Doc. 88-9451 Filed 4-27-88; 8:45 am]

BILLING CODE 3510-DS-M

Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held May 17, 1988 at 9:30 a.m., Herbert C. Hoover Building, Room 4830, 14th Street and Constitution Avenue NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to computer peripherals and related test equipment or technology.

Agenda:

General Session:

1. Introduction of Members and Visitors.
2. Introduction of Invited Guests.
3. Presentation of Papers or Comments by the Public.
4. Public Rule-Making Issues.
5. Protocol Converters.
6. CAD/CAM Workstations.
7. G–COM/GFW Limits/Clarification.
8. Laser Printers/Optional Disk Drives—1522A or 1565.
9. Modems 1519A or 1565A.

Executive Session:

10. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting and can be directed to: Ruth D. Fitts, Technical Support Staff, Office of Technology and Policy Analysis, Room 4086, 14th and Constitution Avenue NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1988, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes call Ruth D. Fitts, 202–377–4959.

Date: April 25, 1988.

Betty A. Ferrell,

Acting Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 88–9422 Filed 4–27–88; 8:45 am]

BILLING CODE 3510-DT-M

National Bureau of Standards

[Docket No. 80341-8041]

Proposed Federal Information Processing Standard (FIPS) for POSIX: Portable Operating System Interface for Computer Environments

AGENCY: National Bureau of Standards, Commerce.

ACTION: Request for comments.

SUMMARY: The purpose of this notice is to request comments on a proposed Federal Information Processing Standard for POSIX. Also proposed is a plan to develop an Applications Portability Profile. NBS plans to issue this standard as an interim FIPS after the comment period to enable the Federal government to proceed with procurement actions needed to acquire advanced technology at the least cost to the government. This standard is one component of a series of specifications needed for computer applications portability, and will enable Federal agencies to utilize the POSIX specification in developing systems for applications portability. A final FIPS for POSIX will be proposed when final specifications for POSIX are completed by The Institute of Electrical and Electronics Engineers, Inc. (IEEE). Prior to issuing an interim FIPS, it is essential that proper consideration be given to the needs and views of industry, the public and the State and local governments.

This proposed FIPS contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard, and an appendix which provides an initial plan for developing an Applications Portability Profile in cooperation with industry and users, and (2) a specifications section (IEEE 1003.1/POSIX, Draft 12) which deals with the technical requirements of the standard. Only the announcement section of the standard is provided in this notice. Copies of the proposed standard may be obtained from the Standards Processing Coordinator (ADP), Institute for Computer Sciences and Technology, Technology Building, Room B–64, National Bureau of Standards, Gaithersburg, MD 20899, telepone (301) 975–2816.

DATE: Comments on this proposed FIPS and the proposed Applications Portability Profile plan should be submitted before May 31, 1988.

ADDRESS: Written comments concerning the proposed interim FIPS and the Applications Portability Profile plan shold be sent to: Director, Institute for Computer Sciences and Technology, ATTN: PROPOSED FIPS FOR POSIX, Technology Building, Room B–154, National Bureau of Standards, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Martin, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, telephone (301) 975–3295.

SUPPLEMENTARY INFORMATION: An earlier version of this standard was announced in the **Federal Register** (51 FR 30896 dated August 29, 1986) and sent to all Federal agencies and State governments for review. Comments received from the August 29, 1986 notice that dealt with the technical specifications were submitted to the voluntary standards committee for its consideration in preparing Draft 12.

Ernest Ambler,

Director.

Date: April 25, 1988.

Federal Information Processing Standards Publication (date) Announcing the Interim Standard for POSIX Portable Operating System Interface for Computer Environments

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Bureau of Standards after approval by the Secretary of Commerce pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the Computer Security Act of 1987, Pub. L. 100–235.

Name of Standard. POSIX: Portable Operating System Interface for Computer Environments.

Category of Standard. Software Standard, Operating Systems.

Explanation. This publication announces the adoption of Draft 12 of the Institute of Electrical and Electronics Engineers (IEEE) Standard for Portable Operating System Interface for Computer Environments (IEEE 1003.1/POSIX) as an Interim Federal Information Processing Standard (FIPS). IEEE 1003.1/Draft 12 defines a C language source interface to an operating system environment. This standard is for use by computing professionals involved in system and application software development and implementation. This standard is the first component of a series of specifications needed for application portability. The Appendix to this standard discusses the elements needed in an Applications Portability Profile and provides a schedule for the additional specifications.

Approving Authority. Secretary of Commerce.

Maintenance Agency. U.S. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index. The Institute of Electrical and Electronic Engineers Standard for Portable Operating System Interface for Computer Environments, IEEE 1003.1/Draft 12 (POSIX).

Related documents:

a. Federal Information Resources Management Regulation 201–8.1. Federal ADP and Telecommunications Standards.

b. Draft Proposed American National Standard X3J11/87–140, "Programming Language C".

Objectives. This FIPS permits Federal departments and agencies to exercise more effective control over the production, management, and use of the Government's information resources. The primary objectives of this FIPS are:

a. To promote portability of computer application programs at the source code level.

b. To simplify computer program documentation by the use of a standard portable system interface design.

c. To reduce staff hours in porting computer programs to different vendor systems and architecture.

d. To increase portability of acquired skills, resulting in reduced personnel training costs.

e. To maximize the return on investment in generating or purchasing computer programs by insuring operating system compatibility.

Government-wide attainment of the above objectives depends upon the widespread availability and use of comprehensive and precise standard specifications.

Applicability. This FIPS should be used for operating systems that are either developed or acquired for Government use where applications portability is a major requirement. This FIPS is applicable to the entire range of computer hardware, e.g.:

a. Micro-computer systems.

b. Mini-computer systems.

c. Engineering workstations.

d. Mainframes.

Specifications. The POSIX FIPS specifications are the specifications contained in the Institute of Electrical and Electronics Engineer Standard for Portable Operating System Interface for Computer Environments, IEEE 1003.1/Draft 12 (POSIX) as modified below. IEEE 1003.1/Draft 12 defines a C language source code level interface to an operating system environment. IEEE 1003.1/Draft 12 refers to and is a complement to draft ANSI standard X3J11/87–140, C Language, which is under development by Accredited Standards Committee X3. IEEE 1003.1/Draft 12 requires specific areas of ANSI X3J11/87–140, C Language, to complete the environment specification for portable application software.

The following modifications to IEEE 1003.1/Draft 12 Standard for Portable Operating System Interface for Computer Environments are required for implementations of POSIX that are acquired by Federal agencies:

a. A null pathname shall be considered invalid and generate an error (2.10.3, lines 894–896.).

b. The use of the **chown( )** function shall be restricted to a process with appropriate privileges (2.10.4, lines 924–926).

c. Only a user with appropriate privileges shall be allowed to link or unlink directories (2.10.4, lines 938–939).

d. The owner of a file may use the **utime( )** function to set file timestamps to arbitrary values (2.10.4, lines 943–945).

e. The implementation shall support a value of {NGROUPS_MAX} greater than or equal to eight (8) (2.9.2). An implementation may provide a method for setting {NGROUPS_MAX} to value other than eight (8).

f. The implementation shall support the setting of the group-ID of a file (when it is created) to that of its parent directory (2.10.4, lines 934–937). An implementation may provide a programmable selectable means for setting the group-ID of a file (when it is created) to the effective group-ID of the creating process.

g. The use of chown() shall be restricted to changing the group-ID of a file to the effective group-ID of a process or when {NGROUPS_MAX}>0, to one of its supplementary group-IDs (2.10.4, lines 927–930).

h. The exec() type functions shall save the effective user-ID and group-ID (2.10.3, lines 902–903).

i. The kill() function shall use the saved set user-ID of the receiving process instead of the effective user-ID to determine eligibility to send the signal to a process (2.10.3, lines 891–893).

j. When a session process group leader executes an exit() a SIGHUP signal shall be sent to each member of the session process group (2.10.3 lines 880–883).

k. The terminal special characters defined in Sections 7.1.1.10 and 7.1.2.7 can be individually disabled by using the value specified by _POSIX_V_DISABLE (2.10.4, lines 946–949; 7.1.1.10; 7.1.2.7).

l. The implementation shall support the _POSIX_JOB_CONTROL option (2.10.3, lines 884–886).

m. The implementation shall provide support for both the CPIO and USTAR data interchange formats (10.; Appendix D).

n. Pathname components longer than {NAME_MAX} shall be considered invalid and generate an error (2.10.4, lines 940–942).

o. When the rename(), unlink() or rmdir() function is unsuccessful because the conditions for [EBUSY] occur, the implementation shall report the [EBUSY] errno (5.5.1.4, lines 481–482; 5.5.2.4, lines 523–524; 5.5.3.4, lines 593–594).

p. When the rename() function is unsuccessful because the conditions for [EXDEV] occur, the implementation shall report the [EXDEV] errno (5.5.3.4, lines 593–594).

q. When the fork() or exec type function is unsuccessful because the conditions for [ENOMEM] occur, the implementation shall report the [ENOMEM] errno (3.1.1.4, line 54; 3.1.2.4, lines 175–176).

r. When the getcwd() function is unsuccessful because the conditions for [EACCES] occur, the implementation shall report the [EACCES] errno (5.2.2.4, lines 148–149).

s. When the chown() or wait2() function is unsuccessful because the conditions for [EINVAL] occur, the implementation shall report the [EINVAL] errno (3.2.1.4, line 272; 5.6.5.4, line 857).

t. The tcsetattr() function shall only set the parameters supported by the underlying hardware associated with the terminal (7.2.1.2, line 502).

Note.—If tcsetattr() is called with a parameter within the termios structure set to a new value not supported by the

terminal device file associated with fildes, tcsetattr() shall return successfully. A subsequent call to tcgetattr() will return the original value of the parameter within the termios structure.

u. If a write() is interrupted by a signal after it successfully writes some data, it shall return the number of bytes written (6.4.2.2, lines 195–196).

v. The write() function shall return −1 and set errno to [EINTR] when the write() operation was terminated due to the receipt of a signal and no data was transferred (6.4.2.4, lines 240–242).

Implementation. This standard may be used immediately on publication (after approval by the Secretary of Commerce). The other elements identified in the Appendix should be considered in planning for future procurements.

a. *Acquisition of a Conforming Portable Operating System Environment.* Operating systems which are to be acquired for Federal use after the publication date of this standard and which have applications portability as a requirement should use this FIPS. Conformance to this FIPS should be considered whether the operating system environments are:

1. developed internally,
2. acquired as part of an ADP system procurement,
3. acquired by separate procurement,
4. used under an ADP leasing arrangement, or
5. specified for use in contracts for programming services.

b. *Interpretation of the FIPS for Portable Operating System Interface for Computer Environments.* NBS provides for the resolution of questions regarding the FIPS specifications and requirements, and issues official interpretations as needed. All questions about the interpretation of this FIPS should be addresssed to: Director, Institute for Computer Sciences and Technology, Attn: POSIX FIPS Interpretations, National Bureau of Standards, Gaithersburg, MD 20899.

C. *Validation of Conforming Operating Systems Environments.* NBS has developed cooperatively with industry a validation suite for measuring conformance to this standard. This suite will be required for testing conformance of POSIX implementations. Requirements for testing will be announced in the near future.

Where to Obtain Copies: Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specifications document is by arrangement with the Institute of Electrical and Electronics Engineers, Incorporated.) When ordering, refer to Federal Information Processing Standards Publication ____ (FIPSPUB ____), and title. Payment may be made by check, money order, or deposit account.

Appendix A

POSIX, as currently defined, is the crucial first step in providing a vendor independent interface specification between an application program and an operating system. The current definition, however, must be extended in order to provide interface specifications for full operating system functionality. These additional interface specifications must include:

(1) *Shell and Tools:* These functions provide an interactive interface for users to control processing. Example: listing the files in a directory.

(2) *Advanced Utilities:* Thes utilities provide additional capabilities and specialized functions that make users and programmers more productive. Example: full-screen editing.

(3) *System Administration:* These functions are required to operate the system. Example: mount a file system.

(4) *Terminal Interface Extensions:* These functions are called by application programs. They enable programs to perform interactive terminal operations in a way that is independent of the type of terminal being used. Example: turn on attributes such as blinking characters or reverse video.

POSIX, when fully extended, will provide the functionality required to support source code portability for a wide range of applications across many different machines and operating systems. However, even the extended POSIX will not be sufficient to achieve portability for all applications.

There is increasing recognition of the need for an architectural approach to applications portability. This recognition has come about because earlier attempts to use a language-based approach to applications portability were not successful. Language portability is only one aspect of the problem of porting applications software from one operating system environment to another. Applications software portability depends on additional factors whihc include:

(1) Characteristics of the underlying hardware/software, (e.g. word length, input/output (I/O) architecture, processor, operating system),

(2) Portability of software utilities used by the application, (e.g. data base management, graphics, operating system functions, and communications),

(3) Data form, format and representation that may need to be transported with the software, and

(4) Language implementation (compiler/interpreter/processor) including specific limits or subsets of the language used in programming, (e.g. magnitude of numeric values, number of subscripts and number of labels).

Unless each of these factors is addressed as part of an overall architecture, the benefits of applications portability will not be fully realized.

A planned Applications Portability Profile (APP) has been developed to provide sufficient functionality to accommodate a broad range of application requirements. The functional components of the APP constitute a "tool box" of standard elements that can be used to develop and maintain portable applications. A key aspect of the APP is that it is an open systems architecture based upon non-proprietary standards. The current planned components of the APP are summarized in Figure 1 and described in the following paragraphs. Additional components may be added as technology changes and as Federal government requirements change.

Database Management

Database management is an important aspect of applications portability. A growing number of organizations use a Database Management System (DBMS) to allow application programs, written in a variety of languages, to work on the same basic data. In addition, a DBMS can facilitate language independence in the design, development, and maintenance of data resources.

FIPS 127, Database Language SQL, and the proposed FIPS for Information Resource Dictionary Systems (IRDS) are the initial components to meet the database management requirement.

Data Interchange

In addition to the mechanism for managing data, the data itself is an important aspect of applications portability. In many situations, the problems associated with porting the applications software from one system to another pales in comparison to the problem of porting the data. There are three categories of particular concern regarding data interchange:

- Business Graphics
- Product Data
- Document Processing

FIPS 120, Graphical Kernel System (GKS) and FIPS 128, Computer Graphics Metafile (CGM) are the initial components to meet the business graphics requirements. Initial Graphics

Exchange Specification (IGES) is the initial component to meet the requirements to exchange product data. Standard Generalized Markup Language (SGML) and Office Document Architecture/Office Document Interchange Format (ODA/ODIF) are the initial components to meet the requirements for document processing.

Network Services

There are two basic network services that should be provided:

File Management is an integral part of most applications. File management functions have traditionally focused on accessing data within a local file system. That focus has now shifted to functions that permit shared access to files in a heterogeneous environment of computer hardware, software, and networks. A standard approach to managing this shared access to remote files is an important aspect of software portability. Failure to provide shared access to remote files will inevitably lead to local, incompatible approaches that inhibit application portability.

Network File System (NFS) is the initial component to meet file management facility requirements.

Data Communications facilities permit interoperability among applications in a heterogeneous environment of computer hardware, software, and networks. The requirement to manage shared access to remote files is just part of a larger requirement for applications software to perform its functions in a network environment. Here again, failure to provide this function will inevitably lead to local, incompatible approaches that inhibit applications portability.

Government Open Systems Interconnection Profile (GOSIP) is the initial component to satisfy the data communications requirements.

User Interface

The most neglected aspect of applications software portability is the requirement to maintain a consistent user interface across all systems on which the application resides. The fact that the application is likely to be distributed over a heterogeneous environment of computer hardware, software, and networks means that the user interface facility must provide the flexibility to allow the user to interact with programs within such an environment.

The X Window System is the initial component to meet user interface requirements.

Programming Languages

The most emphasized aspect of applications software portability is the requirement for programming language portability from one system to another. The major problem is that programming language portability is often equated with applications software portability. A key requirement for programming languages is that a sufficient variety be included to encompass the full range of application requirements.

The C language binding is the initial component for programming language interfaces. Additional bindings will be developed for FORTRAN, COBOL, Ada, and Pascal.

Figure 1—APPLICATIONS PORTABILITY PROFILE

Function	Element	Specification
Operating System	POSIX	IEEE P1003.1. IEEE P1003.2.
Data Base Management	SQL	FIPS 127.
	IRDS	X3.138 (proposed FIPS).
Data Interchange:		
—Business Graphics	GKS & CGM	FIPS 120, 128.
—Product Data	IGES	NBSIR 86-3359.
—Document Processing	SGML	ISO 8879-1986.
	ODA/ODIF	ISO/DIS 8613.
Network Services:		
—Data Communications	OSI	GOSIP.
—File Management	NFS	IEEE P1003.X.
User Interface	X Window System	X3H3.6.
Languages	C	X3J11 draft X3.159.
	COBOL	FIPS 021-2.
	FORTRAN	FIPS 069-1.
	Ada	FIPS 119.
	Pascal	FIPS 109.

SCHEDULE

While NBS will continue to work with both national and international standards organizations to produce the needed specifications, current federal requirements dictate immediate action. In order to meet this need NBS will adopt a series of specifications based on emerging national and international standards.

These specifications will include interface specifications for (1) Shell and Tools, (2) Advanced utilities, (3) System Administration, and (4) Terminal Interface Extensions, (5) X Window System, and (6) NFS. These specifications will be added to the profile according to the following schedule:

4th Quarter FY88—
- Shell and Tools
- Advanced Utilities
- System Administration
- Terminal Interface Extensions

1st Quarter FY89—
- X Window System
- NFS

The components of the APP represent varying stages of maturity. Some have not been introduced into the formal standards process (i.e. X Window System), others exist only as draft standards (e.g. POSIX), and others have been adopted as national and international standards (e.g. SQL). As these standards mature there will be a need to update the APP to reflect the changes that will occur. NBS will establish a process to ensure that the APP incorporates the evolving (maturing) consensus of the national and international standards activities for each of the functional components of the APP. In addition, specifications for bindings for languages and other APP components may be required. NBS will identify the need for these bindings and augment the APP as required.

Both users and vendors will be included in this process through an ongoing series of user workshops and implementor workshops which will provide forums for feedback and comments on the evolving APP. The user workshops will be designed to (1)

provide users with information about the progress of defining the APP and (2) provide NBS with input and feedback on the evolving APP and what priorities should be given to the various functional components. The Implementors Workshops will provide a forum in which to discuss the evolving APP with the vendors and to get feedback on the technical mertis of the proposals. These implementor workshops will be designed to ensure that there is a general consensus on the part of vendors to commit to building products to the evolving APP specifications.

[FR Doc. 88-9362 Filed 4-27-88; 8:45 am]

BILLING CODE 3510-CN-M

COMMODITY FUTURES TRADING COMMISSION

Amex Commodities Corp.; Proposed Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contract.

SUMMARY: The Commodity Futures Trading Commission ("Commission") previously published in the **Federal Register** a proposal of the Amex Commodities Corporation ("ACC") for designation as a futures contract market in ten-year Treasury note futures. The Director of the Disision of Economic Analysis ("Division") of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that, in this instance, an additional period for public comment is warranted.

DATE: Comments must be received on or before June 1, 1988.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the ACC ten-year Treasury note futures contract.

FOR FURTHER INFORMATION CONTACT: Naomi Jaffe, Division of Economic analysis, or Elizabeth A. Patterson, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, (202) 254-7227 or (202) 254-8955.

SUPPLEMENTARY INFORMATION: On March 18, 1988, the Commission published in the **Federal Register** a notice of availability of the ACC's proposed terms and conditions for the ten-year Treasury note futures contract (53 FR 8945). As noted, the Director of the Division has determined that, for this proposed contract, an additional comment period is warranted.

In connection with the extended comment period, the Commission wishes to draw particular attention to the ACC's proposal to implement an electronic system for executing trades in this contract during normal trading hours. Under this system, called the electronic Limit Order System ("ELOS"), the ACC board broker would enter bids and offers into the computer, which would store such information, display the highest bid, lowest offer, and aggregate those stored in the system, and furnish reports of executed orders. This system would provide ACC members on and off the floor with equal access to trading in the Treasury note contract.

Copies of the terms and conditions of the proposed futures contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone (202) 254-6314.

Other materials submitted by the ACC in support of the application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract, or with respect to other materials submitted by the ACC in support of the application, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC, on April 22, 1988.

Paula A. Tosini,

Director, Division of Economic Analysis.

[FR Doc. 88-9363 Filed 4-27-88; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Department of the Navy

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[8-00154 I-LM]

Special Nevada Report; Meetings

AGENCY: Department of the Air Force, Defense; Department of the Navy, Defense; and the Bureau of Land Management, Interior.

ACTION: Meetings in the State of Nevada to gain public comment on concerns the public will want addressed in the Special Nevada Report.

SUMMARY: Section 6 of Pub. L. 99-606 (Military Lands Withdrawal Act of 1986) directs the Secretary of the Air Force, the Secretary of the Navy, and the Secretary of the Interior to submit a joint report to Congress, termed the Special Nevada Report, by November 1991. The Department of the Air Force is the lead agency in the preparation of the report. This report is required to evaluate the effect of continued, renewed and proposed military and defense related land withdrawals and airspace uses on the environment and people of the State of Nevada. In addition, the Special Nevada Report will include an analysis and evaluation of possible measures to mitigate the cumulative effects of these withdrawals and airspace uses.

DATES: The meetings will be held at the following locations: .

Ely, Nevada on May 16, 1988 at the Convention Center, 150 6th Street

Winnemucca, Nevada on May 16, 1988 at the Convention Center, 50 Winnemucca Blvd.

Elko, Nevada on May 17, 1988 at the Elko Convention Center, 700 Moren Way

Tonopah, Nevada on May 17, 1988 at the Convention Center, 301 Brougher St.

Fallon , Nevada on May 17, 1988 at the Fallon Community and Convention Center, 100 Campus Way

Caliente, Nevada on May 18, 1988 at the Nevada Girls Training Center, Multi-Purpose Room

Reno, Nevada on May 19, 1988 at the Airport Plaza Hotel, 1981 Terminal Way

Las Vegas, Nevada on May 19, 1988 at the Clark County School District, Education Center, Board Room, 2832 E. Flamingo Road

Sign-in and speaker registration will begin at 6:30 p.m., with the meetings running from 7:00 to 10:00 p.m. at all locations. Written comments will be accepted through 20 June 1988.

ADDRESS: All written comments should be directed to the Director of Engineering and Environmental Planning, HQ TAC/DEE, Langley AFB, VA 23665-5001.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas L. Lord, Director of Engineering and Environmental Planning, HQ TAC/DEE, Langley AFB, VA 23665-5001 or (804) 764-4407.

Dated: April 18, 1988.

Fred Wolf,

Associate State Director, Nevada.

[FR Doc. 88-9473 Filed 4-17-88; 8:45 am]

BILLING CODE 4310-HC-M

DEPARTMENT OF ENERGY

Proposed Decision on Inclusion of a Private Property Near Naturita, CO for Remedial Action Under the Uranium Mill Tailings Radiation Control Act of 1978

AGENCY: Department of Energy.

ACTION: Program Information Notice: Notice of a proposed decision on inclusion of a private property near Naturita, Colorado for remedial action under section 101 of Pub. L. 95-604, the "Uranium Mill Tailings Radiation Control Act of 1978," enacted on November 8, 1978.

SUMMARY: The "Uranium Mill Tailings Radiation Control Act of 1978" (UMTRCA or the Act) authorized the Department of Energy (DOE or the Department) to conduct, in cooperation with interested states, Indian Tribes, and persons who own or control certain inactive mill tailings sites, a program of assessment and remedial action to stabilize and control the tailings in a safe and environmentally sound manner and to minimize or eliminate radiation health hazards at these sites and at nearby vicinity properties.

The DOE has been requested by the Hecla Mining Company (Hecla) to include Hecla's "Durita" property as a designated property for the purposes of remedial action under the Act. The "Durita" property is located approximately nine miles west of Naturita off Colorado Highway 90S.

The DOE proposes not to include the "Durita" property as either a production site or vicinity property for the purposes of remedial action by the DOE under the Act. The purpose of this Notice is to solicit comments on this proposed decision.

DATE: Comments on this Notice of Proposed Decision will be accepted until 5:00 p.m., June 3, 1988. No hearing is scheduled to be held.

ADDRESSES: Comments should be submitted to: Loviece C. Brazley, Attention: Durita Property, U.S. Department of Energy, Mail Stop NE-22, Washington, DC 20545. The Docket is available for public inspection between 9:00 a.m. and 4:00 p.m., Monday through Friday, at DOE's public reading room, 1000 Independence Avenue SW., Washington, DC and at the U.S. Attorney's Office, Denver, Colorado. A reasonable fee may be charged for copying.

Background: The "Uranium Mill Tailings Radiation Control Act of 1978," Pub. L. 95-604, 42 U.S.C. 7901, *et seq.*, establishes a program to provide for the stabilization, disposal, and control of uranium mill tailings in a safe and environmentally sound manner. Under Title I of the Act, the DOE is authorized to conduct remedial actions at certain inactive processing sites.

Section 101(6) of the Act defines two types of "processing sites." The first is a "production site" defined as: "(A) any site, including the mill, containing residual radioactive materials at which all or substantially all of the uranium was produced for sale to any Federal agency prior to January 1, 1971 under a contract with any Federal agency, * * * unless—(i) Such site was owned or controlled as of January 1, 1978, or is thereafter owned or controlled, by any Federal agency, or (ii) a license (issued by the [Nuclear Regulatory] Commission or its predecessor agency under the Atomic Energy Act of 1954 or by a State as permitted under section 274 of such Act) for the production at such site of any uranium or thorium product derived from ores is in effect on January 1, 1978, or is issued or renewed after such date." The second type is a "vicinity property" defined as: "(B) any other real property or improvement thereon which—(i) Is in the vicinity of such [production] site, and (ii) is determined by the Secretary, in consultation with the Commission, to be contaminated with residual radioactive materials derived from such site."

Section 101(7) of the Act defines the term "residual radioactive material" to mean: "(A) waste (which the Secretary determines to be radioactive) in the form of tailings resulting from the processing of ores for the extraction of uranium and other valuable constituents of the ores; and (B) other waste (which the Secretary determines to be radioactive) at a processing site which relate to such processing, including any residual stock of unprocessed ores or low-grade materials."

Furthermore, section 101(8) of the Act defines "tailings" to mean "the remaining portion of a metal-bearing ore after some or all of such metal, such as uranium, has been extracted."

Before the passage of UMTRCA on November 8, 1978, Ranchers Exploration & Development Corporation (Ranchers), the predecessor-in-interest to the Hecla Mining Company, owned and controlled a quantity of uranium mill tailings at a site known as "Naturita," a reviously active mill site also near Naturita, Colorado. Ranchers possessed the tailings under license Colo. 317-01S, issued on November 12, 1976, by the State of Colorado. On June 9, 1977, a new state license, Colo. 317-02S, was issued superceding the previous license and permitting Ranchers to "transport and process" uranium mill tailings. Amendments 1 (October 26, 1977), 2 (December 12, 1977), and 3 (May 4, 1978) modify the license to authorize the excavation and transportation of uranium mill tailings from the old Naturita mill site to the new "Durita" processing site for the "production of natural uranium concentrate by leaching of uranium mill tailings."

It is the Department's view that the "Durita" site was operating as an active mill site under a valid state production license at the time UMTRCA was enacted, and that the site does not fit within the definition of a "processing site" under section 101(6)(A) of the Act as a site appropriate for remedial action because the uranium produced there was not produced for sale to any Federal agency prior to January 1, 1971. Furthermore, with respect to such "[a]ctive operations" at the time of the Act's passage, Congress in section 115(a) has prohibited expenditures with respect to any site licensed by a state at which production of any uranium product takes place. It was Congress' intent that remedial action at licensed active mill sites be taken by the license holder pursuant to the license requirements under the supervision of the regulating agency, and not be taken under UMTRCA at taxpayer expense.

In addition, because "Durita" was a licensed active mill site, it does not fit within the definition of a vicinity property under section 101(6)(B). Any remaining materials at the "Durita" mill site are "derived" from the active production operation itself rather than from the inactive Naturita mill site. Once the uranium mill tailings were excavated and transported from the Naturita mill site to "Durita" for processing, they lost their characteristic

as "residual radioactive materials." As set out above, that terms means "waste in the form of tailings." Although the materials taken from the Naturita mill site to the "Durita" mill site were tailings, they were not "waste," since they were transported as a valuable industrial product for use in a profit making venture, i.e., the production of uranium for sale as yellow cake to private industry. Indeed, in 1978 and 1979, Ranchers had revenues of $8,841,737 and $12,491,067, respectively, from the leaching of uranium mill tailings. The inclusion of "Durita" as a vicinity property would thus seem contrary to Congress' intent that such vicinity properties not have been active mill sites themselves at the time of UMTRCA's passage.

Even assuming that the materials at the "Durita" mill site qualify as residual radioactive material derived from the Naturita site which Ranchers was processing under license Colo. 317–02S for sale to a Federal agency, the site would still not be appropriate for designation. Section 101(6)(A)(ii) precludes designation where a license issued by a state for the production of any uranium produce is in effect on January 1, 1978. However, in the stipulation following section 101(6)(B)(ii) and pursuant to the procedures established in section 108(b), an exemption is provided where a license is issued for the reprocessing of mill tailings at a designated site. In this case, the uranium production at the "Durita" mill site using mill tailings from the Naturita site was undertaken prior to the designation of Nuturita as a "processing site." Moreover, since neither Ranchers nor Hecla took any action to meet the requirements of section 108(b) after Naturita's designation, in the Department's view the exception would not apply.

Accordingly, the DOE is now proposing to make a final decision not to include the "Durita" property in the UMTRCA remedial action program as either a production site or vicinity property, and is requesting comments on its proposed decision. Comments are requested by June 3, 1988. It is expected that within 15 days thereafter, the Department will finalize its decision and publish a Federal Register notice to that effect.

FOR FURTHER INFORMATION CONTACT: Mr. W. John Arthur III, Project Manager, Uranium Mill Tailings Project Office, U.S. Department of Energy, 5301 Central Avenue NE, Suite 1720, Albuquerque, New Mexico, 87108, telephone: (505) 844–3941, or Mr. Loviece C. Brazley, Division of Uranium Mill Tailings Projects, Office of Nuclear Energy, U.S. Department of Energy, Mail Stop NE–22, Washington, DC 20545, telephone: (301) 353–2585.

Issued in Washington, DC, April 21, 1988.

John E. Baublitz,

Acting Director, Office of Remedial Action and Waste Technology, Office of Nuclear Energy.

[FR Doc. 88–9453 Filed 4–27–88; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[ERA Docket No. 82–20–NG]

Application to Import Natural Gas from Canada and Mexico; Amalgamated Pipeline Co.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application for blanket authorization to import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on April 8, 1988, of an application filed by Amalgamated Pipeline Company (Amalgamated) for blanket authorization to import up to 100 Bcf of natural gas from Canadian or Mexican suppliers for domestic spot sales over a two-year period.

Amalgamated, a Texas Corporation that is an indirect subsidiary of Rainbow Resources, Inc., with its principal offices in Houston, Texas, intends to function as an agent or broker for either U.S. purchasers or Canadian and Mexican producers. Amalgamated will import the gas over existing pipelines only and proposes to file quarterly reports detailing the purchaser, seller, price and volume for each blanket transaction.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed no later than May 31, 1988.

FOR FURTHER INFORMATION CONTACT:

Thomas Dukes, Natural Gas Division, Economic Regulatory Administration, U.S. Department of Energy, Forrestal Building, Room GA–076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590.

Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076, RG–23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. They must be filed no later than 4:30 p.m. e.d.t., May 31, 1988.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an

oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Amalgamated's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076-A at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 14, 1988.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88-9388 Filed 4-27-88; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER88-356-000, et al.]

Washington Water Power Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

April 25, 1988.

Take notice that the following filings have been made with the Commission:

1. Washington Water Power Company

[Docket No. ER88-356-000]

Take notice that on April 19, 1988, Washington Water Power Company (Seller) tendered for filing a Firm Capacity and Energy Agreement dated as of January 1, 1988 with Puget Sound Power & Light Company (Purchaser). Seller states that service under this Agreement commenced on January 1, 1988 and shall continue through December 31, 2002 with contractual provisions for its extension through December 31, 2004.

The Agreement provides for the Seller to make available to the Purchaser 100 Mw of capacity and associated energy to be scheduled by the Purchaser under provisions of the Agreement.

Seller requests an effective date of January 1, 1988 for the rate schedule, and therefore requests a waiver of the Commission's notice requirements stating that there will be no effect upon Purchaser's under other rate schedules.

Comment date: May 9, 1988, in accordance with Standard Paragraph E at the end of this notice.

2. Public Service Company of New Mexico

[Docket No. ER88-275-000]

Take notice that on April 14, 1988, Public Service Company of New Mexico (PNM) tendered for filing, in response to a directive from the Director, Division of Power Application Review, an amendment to its previous filing in this case to provide additional cost support data, bulk power market analyses, and narrative explanation of the inventorying treatment utilized by the New Mexico Public Service Commission. PNM continues to request an effective date of May 1, 1988.

Copies of the amendment to filing were served upon all persons receiving the original filing and on all entities which have petitioned to intervene in this docket.

Comment date: May 4, 1988, in accordance with Standard Paragraph E at the end of this notice.

3. Pacific Gas and Electric Company

[Docket No. ER88-301-000]

Take notice that on April 18, 1988, Pacific Gas and Electric Company (PG&E) tendered for filing an amendment to its March 30, 1988 filing. PG&E states that it has filed the following:

(1) Executed copies of the Rate Settlement Agreement Between PG&E and City of Santa Clara (CSC) and the Agreement Between PG&E and CSC for future rate treatment of the Diablo Canyon Nuclear Power Plant.

(2) Revised Exhibit A-1 to the Interconnection Agreement Between PG&E and CSC. Though these revisions do not change the level of any rate, PG&E interprets the Interconnection Agreement and the Commission's regulations as requiring that revisions to A-1 be filed.

The City of Santa Clara has filed a Certificate of Concurrence for this filing.

Copies of this filing have been served upon all parties affected by this proceeding.

Comment date: May 9, 1988, in accordance with Standard Paragraph E at the end of this notice.

4. Carolina Power & Light Company

[Docket No. ER88-357-000]

Take notice that on April 19, 1988, Carolina Power & Light Company (Company) tendered for filing two Power Coordination Agreements between the Company and the North Carolina Eastern Municipal Power Agency (Power Agency) regarding the diesel generating projects at Edenton and Elizabeth City, North Carolina (Generating Projects), which supplement the Power Coordination Agreement dated July 30, 1981 (1981 PCA), between the Company and the Power Agency. The "Power Coordination Agreement—1988B Between North Carolina Eastern Municipal Power Agency and Carolina Power & Light Company for the Diesel New Resource Generating Project at Edenton, North Carolina" (1988B PCA) dated March 29, 1988 sets forth the terms and conditions related to the use as a New Resource of Power Agency's purchase of capacity and energy from the generating project being undertaken by Edenton. The "Power Coordination Agreement—1988C Between North Carolina Eastern Municipal Power Agency and Carolina Power & Light Company for the Diesel New Resource Generating Project at Elizabeth City, North Carolina" (1988C PCA) dated March 29, 1988 set forth the terms and conditions related to the use as a New Resource of Power Agency's purchase of capacity and energy from the generating project being undertakenm by Elizabeth City, North Carolina. Both agreements are as a result of applicable provisions of the 1981 PCA and the "Agreement Regarding New Resources and Interim Capacity" (NRIC Agreement) dated October 13, 1987. The 1981 PCA is on file with the Commission and has been assigned Rate Schedule FERC No. 121. The NRIC agreement is on file with the Commission and has been assigned Supplement No. 9 to Rate Schedule FERC No. 121.

The 1988B PCA and 1988C PCA set forth provisions whereby Power Agency shall cause its participants, Edenton and Elizabeth City, North Carolina, to install diesel-fueled generating plants for the purpose of supplying electric power and energy for purchase by Power Agency to serve its hourly resource demand. Purchase of such power and energy shall be under separate agreement between Power Agency and each

producer. Power Agency will be responsible for all aspects of the Generating Projects including interconnecting to electric systems, providing for timely, accurate and reliable metering, operating and maintaining the projects and dispatching the output of the generation. The Generating Projects have been designed to include four units at Elizabeth City each with a maximum electrical rating of one thousand seven hundred and fifty (1,750) kilowatts, and two units at Edenton each with a maximum elecrical rating of one thousand two hundred and fifty (1,250) kilowatts. No purchase by Power Agency from Company of Supplemental Capacity or Transmission Use or purchases and sales of energy will occur under either the 1988B PCA or the 1988C PCA. Rather, the amounts of such purchases and sales and the related charges will be determined under the 1981 PCA and other agreements between Power Agency and the Company in accordance with applicable terms as modified by the 1988B PCA and the 1988C PCA. The 1988B PCA and the 1988C PCA became effective upon execution and shall continue in effect until the earlier of the termination of (i) the 1981 PCA, (ii) the 1981 PCA Supplemental Capacity Arrangement or (iii) the temination of the respective sales agreement between Power Agency and Edenton and Power Agency and Elizabeth City. Power Agency has given the Company a notice of a planned commencement date for the diesel generating projects of July 1, 1988.

Comment date: May 9, 1988, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-9463 Filed 4-27-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP88-167-000]

Algonquin Gas Transmission Co., Intent To Prepare an Environmental Assessment on the Proposed Braintree Pipeline Project and Request For Comments on Environmental Issues

April 25, 1988.

Proposed Action

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) on the faclilities proposed in the above-referenced docket. On January 15, 1988, Algonquin Gas Transmission Company (Algonquin) filed an application, pursuant to section 7 of the Natural Gas Act, proposing to: (1) provide firm transportation service for the Town of Braintree, Massachusetts, Electric Light Department (Braintree); and (2) construct 6.4 miles of 16-inch-diameter pipeline and looping and one meter station in Norfolk and Bristol Countries, Massachusetts, and Providence County, Rhode Island. (See figure 1.) [1]

This proposal was filed as a result of the Commission's notice inviting applications to provide new gas service to the Northeastern United States. The Commission's order, issued March 17, 1988, in Docket No. CP87-451-004, identified this proposal as a "discrete project." [2]

The proposed facilities include two 16-inch-diameter pipeline loops (0.6 and 3.6 miles long), a new 2.2-mile-long, 16-inch-diameter piepline, a new meter station, and other miscellaneous modifications to existing meter stations. Figures 2, 3, and 4 provide site-specific locations of the areas affected. The 3.6-mile loop would be constructed in the tows of Randolph and Braintree, Massachusetts; the 0.6-mile loop would be constructed in Seekonk, Masaschusetts and East Providence, Rhode Island; and the 2.2 miles of new pipeline and the proposed Potter Meter Station would be constructed in Braintree, Massachusetts.

The proposed 2.2-mile pipleline extension would begin where the 3.6-mile loop terminates. The Potter Meter Station would be construted at the north end of the new pipeline extention on a portion of the power plant owned by Braintree.

Algonquin would use all of the proposed 16-inch-diameter pipline, totaling 6.4 miles, to provide firm transportation service of up to 21,660 MMBtu per day of natural gas for Braintree. This service would be for a primary term of 20 years proposed to commerce on December 1, 1988. The gas would be received from Connecticut Natural Gas Corporation at Glastonbury, Mansfield, Cromwell, and Farmington, Connecticut, for transportation through Algonquin's transmission system and then be delivered to Braintree at the new Potter Meter Station. Braintree would see the natural gas as fuel in its electrical generating plant.

The proposed 0.6 and 3.6 miles of 16-inch-diamter pipeline looping would be aligned generally parallel and adjacent to Algonguin's existing 10-inch-diameter pipelines. Each loop would require a 40-foot-wide construction right-of-way with 20 feet to be maintained as permanent right-of-way. The 3.6 mile loop would begain east of of Pond Street and run northeast to its destination at Algonquin's existing East Braintree Meter Station. Algonquin estimates that 17 acres would be distributed by construction of the 3.6-mile loop, with 8.5 acres retained as permanent right-of-way.

The 0.6-mile loop would start at the end of another 0.6 mile, 16-inch-diameter loop currently proposed in Docket No. CP87-554-000, which was identified by the Commission in its March 17, 1988 order as part of a competitive Northeast Project involving Texas Eastern Tranmission Corporation, PennEast Gas Services Company, and Algonquin. This loop would originate south of Highland Avenue in Massachusetts and proceed southwest across the Runnins River stopping north of the Wampanoag Trail Highway in Rhode Island. About half of the 0.6-mile loop would be located in each state. Algonquin indicates that a total of 2.9 acres would be affected during the construction of the loop, with 1.5 acres permanently retained as right-of-way.

The 2.2-mile pipeline extension of the 3.6-mile loop would begin at Algonguin's existing East Braintree Meter Station and terminate at the proposed Potter Meter Station. Algonquin states that 2.07

---

[1] Figures 1, 2, 3, and 4 have not been printed in the Federal Register, but are available from the FERC's Division of Program Management, Public Reference Section, telephone (202) 357-8118.

[2] A proposal that can be processed independently and, if authorized, will not adversely impact pending competitive projects.

miles of this new line would be constructed utilizing available work space within existing roadways.

Algonquin proposes to construct the pipelines and meter station during May through October 1988. Backhoes would be used to dig a trench about 2.5-feet wide and deep enough to provide at least 2 feet of cover in consolidated rock and 3 feet in soil. Excavated material would be temporarily stored on one side of the right-of-way.

In areas where mechanical rippers and excavators are unable to fracture the rock substrate or are impractical to use, Algonquin indicates that blasting may be required. Algonquin's blasting contractor would be required to exhibit a valid certificate of compentency issued by the state fire marshall and evidence of a valid blasting bond. To minimize the impact, Algonquin would ensure that all blasting would occur during daylight hours with protective measures taken to avert the transmission of vibration and thrown rocks. The contractor would be required to exercise extreme care when blasting to avoid scattering loose rock over the right-of-way or cause damage to any property, on or off the right-of-way. No blasting would be allowed without the prior permission of Algonquin's inspector and notice to the public and owners of adjacent property.

After the trench is dug, individual joints of pipe would be placed along the right-of-way adjacent to the ditch. A mechanical pipe-bending machine would be used to bend pipe joints to conform to the natural ground contours or where the pipeline changes direction. The pipe joints would then be welded and lowered into the trench. The exception would be for street construction required for the 2.2-mile pipeline extension where the pipe sections would be welded in the ditch.

When the pipe welding and installation in the ditch is completed, the trench would be backfilled. Areas disturbed by construction would be: (1) Fine-graded; (2) trash, brush, or debris would be removed; and (3) the properties would be restored to preconstruction conditions compatible with Algonguin's right-of-way maintenance standards. The entire right-of-way would be protected by implementing an erosion control plan which includes contouring and reseeding with grasses. This plan will be evaluated in the EA.

Before being placed into service, the new pipelines would be hydrostatically tested to ensure their integrity in accordance with U.S. Department of Transportation, Minimum Federal Safety Standards, 49 CFR Part 192. Existing municipal water supplies or surface waters would be used to obtain the water for testing. After completion of the hydrostatic testing, the water would be discharged to surface waters using existing vegetation or hay bales as filtering devices.

Algonquin indicates that company inspectors would be assigned to each proposed facility to ensure that the contractors comply and implement all environmental mitigation measures. Algonquin's inspectors would have stop-work authority and would be present at all times during construction.

Environmental Issues

It is presently contemplated that the EA will address the following environmental concerns that have been identified by the staff:

Water Resources—Impact on streams.
Pipeline Safety—
  Safety considerations.
  Blasting.
Cultural Resources—Effect on historic and cultural resources.
Land Use—
  Effect from crossing near hazardous/solid waste sites.
  Impact on homes and future development.
Vegetation—Removal and disposal of trees.
  Impact on wetlands.
Soils—Restoration of the right-of-way.

Alternatives, route modifications, and specific mitigating measures will also be considered in the staff's analysis.

Comment Procedures

The EA will be based on the staff's independent analysis of the proposal and, together with the comments received, will comprise part of the record to be considered by the Commission in this proceeding. The EA will be sent to all parties in this proceeding, to those providing comments in response to this notice, to Federal and state agencies, local government offices, and to interested members of the public.

The EA may be offered as evidentiary material if an evidentiary hearing is held in this proceeding. In the event that an evidentiary hearing is held, anyone not previously a party to this proceeding and wishing to present evidence on environmental and other matters must first file with the Commission a motion to intervene, pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214).

Comments from Federal and state agencies, local government offices, and the public are requested to help identify significant issues or concerns related to the proposed action, to determine the scope of the issues that need to be analyzed, and to identify and eliminate from detailed study the issues which are not significant. All comments on specific environmental issues should contain supporting documentation or rationale. Written comments should be submitted on or before June 1, 1988, reference *Docket No. CP88-167-000*, and be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. A copy of the comments should also be sent to the Project Manager identified below.

Detailed maps showing the location of the proposed facilities have been provided to those on the distribution list. Additional information is available from Mr. James Daniel, Project Manager, Environmental Analysis Branch, Office of Pipeline and Producer Regulation, telephone (202) 357-5364.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 88-9459 Filed 4-27-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP88-333-000, et al.]

El Paso Natural Gas Co., et al.; Natural Gas Certificate Filings

April 22, 1988.

Take notice that the following filings have been made with the Commission:

1. El Paso Natural Gas Company

[Docket No. CP88-333-000]

Take notice that on April 11, 1988, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP88-333-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing El Paso to provide a limited-term interruptible contract storage service utilizing its Washington Ranch Storage facility, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

El Paso proposes to render an interruptible contract storage service utilizing its Washington Ranch Storage facility under new Rate Schedule CSS. It is stated that this contract storage service would be available to any existing or future sales or transportation customer of El Paso for the storage of gas to which that customer holds title. It is stated that a customer may choose to utilize the service to store gas which it has purchased from El Paso's system supply, but it may also choose to have

gas purchased from any third-party or its own supply stored as well.

El Paso states that it has previously been authorized to utilize the Washington Ranch facility for two purposes; namely, to enable it to maintain deliveries of commodity sales gas to meet the high priority (priority 1 and 2) requirements of its east-of-California (EOC) customers and to provide enhanced flexibility in the operation of its system. El Paso further states the proposed contract storage service would permit the Washington Ranch facility to be used by El Paso on terms which are not inconsistent with the previously authorized uses. El Paso indicates that it is not proposing to modify the facility, but rather to make efficient use of the existing capabilities thereof to enable El Paso to provide a new service option.

El Paso proposes that storage customers pay an injection charge, a storage charge, a withdrawal charge and the appropriate transportation charge for the delivery of gas. As to injections, each customer would have the option to pay a priority charge which would enable such customer to obtain certain higher priority rights to such injection capabilities. Injection capability would first be made available for the protection of Priority 1 and 2 service to El Paso's EOC customers and to maintain safe and efficient operation of El Paso's system. Second, remaining injection capability would be allocated pro rata based on contract quantities for those customers paying a priority injection charge. Third, any remaining injection capability would be allocated on a first come/first served basis for those customers electing nonpriority service. The withdrawal of contract storage quantities would be accomplished utilizing the remaining withdrawal capability of the Washington Ranch facility on a pro rata basis by reference to each customer's inventory level on that day. The proposed initial rates are as follows:

Priority Service:	
Priority Charge	$.65078
Priority Volumetric Injection Charge	.0442
Storage Charge	.0132
Withdrawal Charge	.0235
Non-Priority Service:	
Non-Priority Volumetric Injection Charge	.0656
Storage Charge	.0132
Withdrawal Charge	.0235

El Paso proposes that the limited-term would be keyed in each individual circumstance to the term specified in each customers service agreement for contract storage service.

El Paso states that the addition of interruptible contract storage would provide significant additional flexibility to El Paso's customers in their gas purchase planning. Further, it is stated that the addition of contract storage service would permit El Paso to maximize the utilization of the Washington Ranch facility. Finally, El Paso states that approval would provide El Paso with a means to assist in the overall unbundling and restructuring of pipeline service comprehended by recent Commission rule changes.

Comment date: May 13, 1988, in accordance with Standard Paragraph F at the end of this notice.

2. Northern Natural Gas Company, Divison of Enron Corporation

[Docket No. CP88-334-000]

Take notice that on April 11, 1988, Northern Natural Gas Company, Division of Enron Corporation (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP88-334-000 a request, pursuant to § 284.223 of the Commission's Regulations for authorization to provide a transportation service on behalf of NATGAS U.S. INC. (NATGAS), a marketer of natural gas, under Northern's blanket certificate issued in Docket No. CP86-435-000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern proposes to transport up to 410,000 MMBtu per day of natural gas for NATGAS from two receipt points in North Dakota and Iowa to seven delivery points in Kansas, North Dakota, Wisconsin, Iowa and Texas. The peak day amount is estimated to be 410,000 MMBtu, average daily amount is estimated to be 50,000, and annual amount is estimated to be 149,650,000.

Northern indicates that service respective to the provisions stipulated under § 284.223(a) is reported in Docket No. ST88-2604.

Comment date: June 6, 1988, in accordance with Standard Paragraph G at the end of this notice.

3. Texas Gas Transmission Corporation and CSX NGL Corporation

[Docket No. CP84-31-003]

Take notice that on April 12, 1988,[1] Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, and CSX NGL Corporation (CSX), P.O. Box 4326, Houston, Texas 77201, collectively referred to as Applicants filed in Docket No. CP84-31-003 an application requesting that the order issued in the referenced docket, as amended, be further amended to authorize the exchange of natural gas for an additional two years, and to authorize the use of natural gas obtained from the spot market in the exchange, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that by order issued April 23, 1984, in Docket No. CP84-31-000, they wre authorized to implement an agreement whereby Texas Gas delivers natural gas to CSX for processing at CSX's Eunice Gas Processing Plant in Acadia, Parish, Louisiana. At the Eunice Plant, CSX processes the gas and extracts liquefiable hydrocarbons, it is explained. Applicants further explain that up to 20,000 Mcf of natural gas per day attributable to the liquefiable hydrocarbons and plant fuel gas is sold on an interruptible basis to CSX. The gas streamed process by CSX, less up to 20,000 Mcf per day purchased by CSX, is returned to Texas Gas at the plant tailgate, it is explained. The Applicants state that the agreement provides for CSX to purchase the gas equivalent of the liquefiables removed from the gas stream at Texas Gas' system average cost, or with the consent of Texas Gas, CSX may replace the volumes removed with other gas owned by CSX.

The order was amended on May 22, 1987, whereby the Commission granted a one yar authorization to the gas exchange option, it is explained. Applicants further explain that the option was implemented and natural gas is presently exchanged on a therm-for-therm basis.

Applicants requests that the order be further amended to authorize the exchange option for a two year term. Applicants state that it is uneconomic for CSX to purchase gas from Texas Gas on a non-exchange basis. Applicants also request that the order be amended to permit the use of natural gas obtained from the spot market in the gas exchange. The May 22, 1987, order limited implementation of the gas exchange option to certain specified sources of natural gas, it is explained. Applicants state that since issuance of that order, circumstances have changed that warrant this flexibility.

Comment date: May 13, 1988, in accordance with the first subparagraph

[1] The application was tendered for filing March 23, 1988, as amended April 7, 1988, however, the fee required by § 381.207 of the Commission's Rules (18 CFR 381.207) was not paid until April 12, 1988. Section 381.103 of the Commission's Rules provide tthat the filing date is the date on which the fee is paid.

of Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designeee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-9377 Filed 4-27-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-70-009]

East Tennessee Natural Gas Co.; Rate Filing; Interim Purchased Gas Adjustment

April 25, 1988.

Take notice that on April 20, 1988, East Tennessee Natural Gas Company (East Tennessee) tendered for filing ten copies of Thirty-Seventh Revised Sheet No. 4, Fifth Revised Sheet No. 31, Third Revised Sheet Nos. 261 and 262 and Second Revised Sheet No. 278, to its FERC Gas Tariff, Original Volume No. 1, to be effective April 1, 1988, reflecting revised base tariff rates pursuant to the Commission Order of April 6, 1988 approving a Stipulation and Agreement resolving RP87-70 and revisions to the indices of purchasers and annual quantity entitlements.

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 2, 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; provided, however, that any person who had previously filed a motion to intervene in this proceeding is not required to file a further motion. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-9465 Filed 4-27-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-105-000]

Lawrenceburg Gas Transmission Corp.; Petition for Waiver of Certain Purchased Gas Adjustment Filing Requirements

April 25, 1988.

Take notice that on April 18, 1988, Lawrenceburg Gas Transmission Corporation (Lawrenceburg) filed a petition for waiver of certain purchased gas adjustment filing requirements. Lawrenceburg states that this request for waiver is limited to the interim period until a final order is issued in its soon to be filed joint application with Texas Gas Transmission Corporation (Texas Gas).

In its petition Lawrenceburg requests waiver of the requirements (1) that it file revised gas tariff sheets by May 1, 1988 and effective June 1, 1988, to modify its PGA to conform to the requirements of Section 154.301 and 154.310 of the Commission's Regulations, (2) that it file annual and quarterly PGA filings in lieu of its current February 1 and August 1 semi-annual PGA filings, (3) that it adopt a twelve-month amortization period for deferred purchased gas costs, (4) that annual and quarterly PGA filings be submitted on 9-track magnetic tape, (5) that prior Commission approval be obtained before Lawrenceburg could recover through a surcharge, its actual purchased gas costs that exceeded its computed projected gas costs by more than 3 percent, and (6) that it file a new current adjustment and surcharge rate by May 1, 1988 to be effective June 1, 1988. Lawrenceburg also requests that it be allowed to continue using its present PGA methodology until the Commission issues a final order on its soon to be filed application to abandon jurisdictional operations.

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 N.E., 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 May 2, 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 interven. Copies of this filing are on file

with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-9466 Filed 4-27-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-1-14-001]

Lawrenceburg Gas Transmission Corp., Filing Substitute Tariff Sheet

April 25, 1988.

Take notice that on April 18, 1988, Lawrenceburg Gas Transmission Corporation ("Lawrenceburg") tendered for filing one (1) substitute gas tariff sheet to its FERC Gas Tariff, First Revised Volume No. 1, proposed to become effective February 1, 1988, and identified as follows:

Substitute Forty-third Revised Sheet No. 4

Lawrenceburg states that the revised tariff sheet was filed to reflect a downward rate revision from Texas Gas Transmission Corporation, pursuant to Commission Order issued February 3, 1988 in Docket NO. TA88-1-14-000, *et al.*

Copies of this filing were served upon Lawrenceburg'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 protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 2, 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. 88-9467 Filed 4-27-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-77-001]

Natural Gas Pipeline Co. of America; Change in FERC Gas Tariff

April 25, 1988.

Take notice that on April 19, 1988, Natural Gas Pipeline Company of America (Natural) submitted for filing Substitute First Revised Sheet No. 27 to be a part of its FERC Gas Tariff, First Revised Volume No. 1A, to be effective June 1, 1988.

Natural states that the sheet was revised to provide that fuel charges under Rate Schedule FTS shall be based on actual receipt and delivery points rather than primary receipt and delivery points. The revision was made in compliance with FERC order issued April 8, 1988, at Docket No. RP88-77-000.

Natural respectfully requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheet to become effective on June 1, 1988, the effective date designated in the order issued April 8, 1988, at Docket No. RP88-77-000.

A copy of the filing was mailed to Natural's jurisdictional customers and interested state regulatory agencies, and all parties set forth on the official service list at Docket No. RP88-77-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211. All such motions or protests must be filed on or before May 2, 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. 88-9468 Filed 4-27-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP88-2-004]

Northern Natural Gas Co., Division of Enron Corp.; Sale of Natural Gas

April 22, 1988.

Take notice that on April 12, 1988, Northern Natural Gas Company, Division of Enron Corp. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, submitted the following information regarding the sale of natural gas to be made to an affiliate under Northern's Rate Schedule ISS-1, pursuant to the authorization granted by order in Docket No. CP88-2-000 issued March 11, 1988 (42 FERC ¶ 61,303).

A. (1) Name of Buyer: Enron Gas Marketing, Inc. (EGM)
(2) Location of Buyer: Houston, Texas
(3) Affiliation between Northern and Buyer: EGM is a subsidiary of Enron Corp.; Northern is a Division of Enron Corp.
(4) Term of Sale: Through April 1988 and month to month thereafter.
(5) Estimated Total and Maximum Daily Quantities:
Daily Quantity 300,000 MMBtu
Estimated Total—1 Bcf per month
(6) Rate: $1.3400 to $1.8300/MMBtu dependent upon delivery point (See Appendix)

Appendix

Effective Dates

From: April 11, 1988
To: April 30, 1988

Delivery point	Pressure	Rate-MMBtu (dry)
1. NNG-NI Gas Interconnect, @ E. Dubuque, IA.	Existing operating conditions.	$1.6350
2. NNG/NGPL Interconnect, @ Glenwood, IA.	do	1.4550
3. NNG/ANR Interconnect, @ Greensburg, KS.	do	1.8300
4. NNG/ANR Interconnect, @ Janesville, WI.	do	1.8300
5. NNG/PEPL Interconnect, @ Mullinville, KS.	do	1.3400
6. NNG/TX Interconnect, @ Ward County, TX.	do	1.3902
7 NNG/EL PASO Interconnect, @ Keystone, TX.	do	1.3902
8. NNG/MOPS Interconnect, @ Tivoli, TX.	do	1.8300

Docket No. CP88-2-005

B. (1) Name of Buyer: Florida Gas Transmission Company (FGT)
(2) Location of Buyer: Houston, Texas
(3) Affiliation between Northern and Buyer: FGT is a division of Citrus Corp., an Enron Corporation Joint Venture; Northern is a division of Enron Corporation
(4) Term of Sale: Through April 1988 and month to month thereafter.
(5) Estimated Total and Maximum Daily Quantities:
Daily Quantity 100,000 MMBtu
Estimated Total—1 Bcf per month
(6) Rate: $1.42 per MMBtu

Docket No. CP88-2-006

C. (1) Name of Buyer: Transwestern Pipeline Company (Transwestern)
(2) Location of Buyer: Houston, Texas
(3) Affiliation between Northern and Buyer: Transwestern is a subsidiary of Enron Corporation; Northern is a

Division of Enron Corporation;
(4) Term of Sale: Through April 1988 and month to month thereafter.
(5) Estimated Total and Maximum Daily Quantities:
Daily Quantity: 150,000 MMBtu
Estimated Total: 1 Bcf per month
(6) Rate: $1.42 per MMBtu.

Docket No. CP88-2-007

D. (1) Name of Buyer: Enron Industrial Gas Company (Enron Industrial)
(2) Location of Buyer: Houston, Texas
(3) Affiliation between Northern and Buyer: Enron Industrial is a subsidiary of Enron Corporation; Northern is a Division of Enron Corporation.
(4) Term of Sale: Through April 1988 and month to month thereafter.
(5) Estimated Total and Maximum Daily Quantities:
Daily Quantity: 200,000 MMBtu
Estimated Total: 1 Bcf per month
(6) Rate: $1.35 per MMBtu.

Any interested party desiring to make any protest with reference to this sale of natural gas should file with the Federal Energy Regulatory Commission, Washington, DC 20426, within 30 days after issuance of the instant notice by the Commission, pursuant to the order of March 11, 1988. If no protest is filed within that time or the Commission denies the protest, the proposed sale may continue until the underlying contract expires. If a protest is filed, Northern may sell gas for 120 days from the date of commencement of service or until a termination order is issued, whichever is earlier.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 88-9464 Filed 4-27-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-3-41-001]

Southwest Gas Corp.; Compliance Filing

April 25, 1988.

Take notice that on April 19, 1988, Southwest Gas Corporation (Southwest) tendered for filing Substitute Thirty-eight Revised Sheet No. 10 to its FERC Gas Tariff, Original Volume No. 1, pursuant to the Commission's Letter Order of March 17, 1988. Southwest states that this tariff sheet tracks the amended rates approved for Northwest Pipeline Corporation effective April 1, 1988.

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 (1977)). All such motions or protests should be filed on or before May 2, 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. 88-9469 Filed 4-27-88; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3370-9]

Performance Evaluation Reports for Fiscal Year 1987 Section 105 Grants; Missouri, Kansas, Iowa, Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of grantee performance evaluation reports.

SUMMARY: EPA's grant regulations (40 CFR 35.150) require the Agency to conduct yearly performance evaluations on the progress of the approved State/EPA Agreements. EPA's regulations (40 CFR 56.7) require that the Agency make available to the public the evaluation reports. EPA has conducted evaluations on the Missouri Department of Natural Resources, Nebraska Department of Environmental Control, Iowa Department of Natural Resources, and Kansas Department of Health and Environment. These evaluations were conducted to assess the agencies' performance under the grants made to them by EPA pursuant to section 105 of the Clean Air Act.

ADDRESSES: Copies of the evaluation reports are available for public inspection at the EPA's Region VII Office, 726 Minnesota Avenue, Kansas City, Kansas 66101, in the Air and Toxics Division.

FOR FURTHER INFORMATION CONTACT: Carol D. LeValley at (913) 236-2893 (FTS 757-2893).

Date: April 15, 1988.

William Rice,
Acting Regional Administrator.

[FR Doc. 88-9406 Filed 4-27-88; 8:45 am]

BILLING CODE 6560-50-M

[PF-495; FRL-3371-3]

E.I. Du Pont de Nemours and Co., Inc.; Amended Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the filing of an amended pesticide petition (PP 5F3254) and an amended food/feed additive petition (FAP 5H5469) by the E.I. Du Pont de Nemours & Co., Inc., for the insecticide *trans*-5-(4-chlorophenyl)-N-cyclohexyl-4-methyl-2-oxothiazolidone-3-carboxamide in or on various commodities.

ADDRESS: By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

In person, bring comments to: Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 245 at the address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

George LaRocca, Product Manager (PM) 15, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.
Office location and telephone number: Rm. 204, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-2386.

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the Federal Register of August 6, 1985 (50 FR 31773) that announced that E.I. Du Pont de Nemours & Co., Inc., Walkers Mill Building, Barley Mill Plaza, Wilmington, DE 19898, had filed pesticide petition (PP) 5F3254 and food/feed additive petition (FAP) 5H5469 to establish tolerances for residues of the insecticide

trans-5-(4-chlorophenyl-*N*-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide in or on various commodities. DuPont has amended its petitions to read as follows:

1. *PP 5F3254.* It is proposed that tolerances for the combined residues of the miticide, hexythiazox, (DPX-Y5893), *trans*-5-(4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine carboxamide and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety (calculated as miticide) be established as follows:

Commodity	Parts per million
Apples	0.5
Milk	(1)
Meat of cattle, goats, hogs, horses, sheep	0.01
Meat byproducts (except for kidney and liver of cattle)	0.01
Fat of cattle, goats, hogs, horses, sheep	0.01
Kidney of cattle, goats, hogs, horses, sheep	0.01
Liver of cattle, goats, hogs, horses, sheep	0.05
Eggs	0.01
Poultry, fat	0.01
Poultry, meat	0.01
Poultry byproducts	0.01

[1] 0.1 ppm in milk fat of which no more than 0.01 ppm is in whole milk.

2. *FAP 5H5469.* It is proposed that tolerances for the combined residues of the miticide, hexythiazox, (DPX-Y5893), *trans*-5-(4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine carboxamide and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moitey (calculated as the miticide) be established as follows: Apple pomace 5.0 ppm.

Authority: 21 U.S.C. 346a.

Dated: April 15, 1988.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 88-9407 Filed 4-27-88; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-83002I; FRL-3371-2]

Receipt of Request for Waiver of Testing of Rohm and Haas Co.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt of request for waiver of testing requirements.

SUMMARY: EPA requires testing of specified chemical substances to see if they are contaminated with halogenated dibenzo-p-dioxins (HDDs) or halogenated dibenzofurans (HDFs) and reporting of the results. However, provisions are made for exclusion from, or waiver of, these requirements if an appropriate application is made to the Agency and is approved. EPA has received such a request for a waiver of these requirements from Rohm & Haas Co. and this document gives notice of its receipt.

DATE: Comments should be received by May 13, 1988.

ADDRESS: Submit comments in triplicate to: TSCA Public Information Office (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. NE-G004, 401 M St. SW., Washington, DC 20460.

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, (202-554-1404).

SUPPLEMENTARY INFORMATION: EPA under 40 CFR Part 766 (52 FR 21412, June 5, 1987) requires testing of certain chemical substances to determine whether they may be contaminated with HDDs and HDFs.

Under 40 CFR 766.32 (a)(1)(i) and (ii), a person may be granted an exclusion from the testing requirements of Part 766 if appropriate testing of the chemical substance has already been done or the process and reaction conditions are such that HDDs/HDFs would not be produced.

Under the regulation, a request for either an exclusion or waiver must be made before September 4, 1987, for persons manufacturing, importing, or processing a chemical substance as of June 5, 1987, or 60 days prior to resumption of manufacture or import of a chemical substance not being manufactured or processed as of June 5, 1987.

A waiver of the testing requirements of Part 766 may be granted under 40 CFR 766.32 (a)(2)(i) through (ii) if: (1) 100 kilograms or less of the product are produced annually exclusively for research and development, or (2) the cost of testing would be so high as to prohibit its production and the chemical substance will be produced in such a manner that there will be no unreasonable risk during its manufacture import, processing, distribution, use, or disposal. Under 40 CFR 766.32 (a)(2)(iii), waivers may be appropriately conditioned with respect to such factors as time and conditions of manufacture and use.

Rohm & Haas' request states that it may produce chemicals which are subject to the rule at levels of 100 kilograms per year or less, and that these chemicals would only be used for research and development purposes. The request asks that the waiver apply to all compounds subject to the rule which it manufactures.

Dated: April 21, 1988.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 88-9408 Filed 4-27-88; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59843; FRL-3371-4]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published, in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of thirty such PMNs and provides a summary of each.

DATES: Close of Review Periods:

Y 88-97, February 9, 1988.
Y 88-98, February 1, 1988.
Y 88-99 and 88-100, February 10, 1988.
Y 88-101, February 14, 1988.
Y 88-102, February 16, 1988.
Y 88-103, February 17, 1988.
Y 88-143, March 30, 1988.
Y 88-144 and 88-145, April 4, 1988.
Y 88-146, April 5, 1988.
Y 88-147, 88-148, 88-149, and 88-150, April 7, 1988.
Y 88-151 and 88-152, April 17, 1988.
Y 88-153 and 88-154, April 18, 1988.
Y 88-155, 88-156, and 88-157, April 20, 1988.
Y 88-158, April 18, 1988.
Y 88-159, 88-160, and 88-161, April 25, 1988.
Y 88-162, 88-163, 88-164, and 88-165, April 28, 1988.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection

Agency, Rm. E-611, 401 M Street SW., Washington, DC 20460 (202 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 88-97

Manufacturer. Confidential.
Chemical. (G) Alkyd resin.
Use/Production. (S) Coating resin. Prod. range: 15,128 kg/yr.

Y 88-98

Manufacturer. Confidential.
Chemical. (G) Acid-terminated long oil alkyd resin.
Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

Y 88-99

Manufacturer. Confidential.
Chemical. (G) Norbornene copolymer.
Use/Production. (G) Binder/insulator for glass fibers. Prod. range: Confidential.

Y 88-100

Importer. Confidential.
Chemical. (G) Modified acrylic copolymer.
Use/Import. (A) Open, nondispersive. Import range: Confidential.

Y 88-101

Manufacturer. Confidential.
Chemical. (G) 2-oxepanone, polymer with, glycols and 1,1'-methylene bis(isocyanato-benzene).
Use/Production. Confidential. Prod. range: Confidential.

Y 88-102

Manufacturer. Confidential.
Chemical. (G) Rosin-modified phenolic resin.
1,1'-methylene bis(isocyanato-benzene)
Use/Production. (S) Printing ink component. Prod. range: Confidential.

Y 88-103

Manufacturer. Confidential.
Chemical. (G) Waterborne urethane-acrylic copolymer.
1,1'-methylene bis(isocyanato-benzene)
Use/Production. (S) Coating. Prod. range: Confidential. Confidential.
Toxicity Data. Acute oral toxicity: LD50 3,400 mg/kg.
Acute dermal toxicity: LD50 13g/kg species (rat).

Y 88-143

Manufacturer. Confidential.
Chemical. (G) Carboxylated polyamide.
1,1'-methylene bis(isocyanato-benzene)
Use/Production. (G) Coatings and inks. Prod. range: Confidential.

Y 88-144

Importer. Goldschmidt Chemical Corporation.
Chemical. (G) Substituted alkylpolysiloxane. 1,1'-methylene bis(isocyanato-benzene).
Use/Import. (G) Open, nondispersive. Import range: 50,000 kg/yr.

Y 88-145

Manufacturer. Reichhold Chemicals Inc.
Chemical. (G) Unsaturated polyester resin. 1,1'-methylene bis(isocyanato-benzene).
Use/Production. (S) Automotive body patch. Prod. range: Confidential.

Y 88-146

Importer. Confidential.
Chemical. (G) Cross-linked polymeric acrylic micro particles.
Use/Import. (S) Coatings. Import range: Confidential. Confidential.

Y 88-147

Importer. Huls America.
Chemical. (G) Polyester resin of alkyl and aryl dicarboxylic acids and alkyl diols.
Use/Import. (S) Adhesive prepolymer. Import range: Confidential.

Y 88-148

Importer. Huls America.
Chemical. (G) Polyester resin of alkyl and aryl dicarboxylic acids and alkyl diols.
Use/Import. (S) Adhesive component. Import range: Confidential.

Y 88-149

Importer. Huls America.
Chemical. (G) Polyester resin of alkyl and aryl dicarboxylic acids and alkyl diols.
Use/Import. (S) Adhesive manufacture prepolymer. Import range: Confidential.

Y 88-150

Importer. Huls America.
Chemical. (G) Polyester resin of alkyl and aryl dicarboxylic acids and alkyl diols.
Use/Import. (S) Adhesive component. Import range: Confidential.

Y 88-151

Manufacturer. Confidential.
Chemical. (G) Polyolefin copolymer. Acids and alkyl diols.
Use/Production. (G) Contained use. Prod. range: Confidential.

Y 88-152

Manufacturer. Confidential.
Chemical. (G) Substituted maleic anhydoride, styrene, acrylate copolymer.
Use/Production. (G) Contained use. Prod. range: Confidential.

Y 88-153

Manufacturer. C.J. Osborn, Div. of Suvar Corporation.
Chemical. (G) Soya modified alkyd. acrylate copolymer.
Use/Production. (S) Pigment & clear finding. Prod. range: Confidential.

Y 88-154

Manufacturer. The Goodyear Tire & Rubber Company.
Chemical. (G) Terephthalic acid, mixed alkyl acids, alkane polyol polymer.
Use/Production. (S) Adhesive resin. Prod. range: 45,454-227, 272 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (rat). Skin irritation: negligible species (rabbit).

Y 88-155

Manufacturer. Confidential.
Chemical. (G) Long oil alkyd. polyol polymer.
Use/Production. (G) Resin for coatings. Prod. range: Confidential.

Y 88-156

Manufacturer. Confidential.
Chemical. (G) PMS copolymer. polyol polymer.
Use/Production. (G) Resin for coatings. Prod. range: Confidential.

Y 88-157

Manufacturer. Confidential.
Chemical. (G) Long oil alkyd. polyol polymer.
Use/Production. (G) Resin for coatings. Prod. range: Confidential.

Y 88-158

Manufacturer. C.J. Osborn.
Chemical. (G) Short oil alkyd. polyol polymer.
Use/Production. (S) Pigmented and clear finishings. Prod. range: Confidential.

Y 88-159

Manufacturer. Confidential.
Chemical. (G) Modified alkyd. polyol polymer.
Use/Production. (G) Resin for coatings. Prod. range: Confidential.

Y 88–160

Manufacturer. Confidential.

Chemical. (G) Water reducible alkyd. polyol polymer.

Use/Production. (G) Resin for coatings. Prod. Range: Confidential.

Y 88–161

Manufacturer. Confidential.

Chemical. (G) Aliphatic alicycle polyester urea trethane. polyol polymer.

Use/Production. (G) Industrial coating component. Prod. range: 10,000–30,000 kg/yr.

Y 88–162

Manufacturer. S.C. Johnson & Sons, Inc.

Chemical. (G) Aqueous solutions of acrylic polymer salts. polyol polymer.

Use/Production. (G) Water-borne polymer for adhesives. Prod. range: Confidential.

Y 88–163

Manufacturer. Confidential.

Chemical. (G) Aliphatic polyester polyol. polyol polymer.

Use/Production. (S) Component. Prod. range: 22,900–45,800 kg/yr.

Y 88–164

Manufacturer. Confidential.

Chemical. (G) Water soluble polyester resin. polyol polymer.

Use/Production. (S) Component for sizing for hybrid fibers. Prod range: 68,100–136,200 kg/yr.

Y 88–165

Manufacturer. Confidential.

Chemical. (G) Chain-stopped alkyd resin. polyol polymer.

Use/Production. (S) Industrial air-dry enamel coating. Prod. range: 178,800–255,400 kg/yr.

Date: April 22, 1988.

Steve Newburg-Rinn,

Acting Chief, Public Data Branch, Information Management Division, Office of Toxic Substances.

[FR Doc. 88–9410 Filed 4–27–88; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59259; FRL–3371–8]

Toxic and Hazardous Substances; Test Market Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substance Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one applications for exemption, provides a summary, and requests comments on the appropriateness of granting this exemption.

Written comments by: T 88–10, May 12, 1988.

ADDRESS: Written comments, identified by the document control number "(OPTS–59259)" and the specific TME number should be sent to: Document Processing Center (TS–790), Office of Toxic Substances, Environmental Protection Agency, Rm. L–100, 401 M Street SW., Washington, DC 20460, (202) 554–1305.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M Street SW., Washington, DC 20460, (202) 382–3755.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room NE–G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

T 88–10

Close of Review Period. May 26, 1988.

Manufacturer. Confidential.

Chemical. (G) Modified polyarylamide.

Use/Production. (S) Cement additive. Import range: Confidential.

Date: April 22, 1988.

Steve Newburg-Rinn,

Acting Chief, Public Data Branch, Information Management Division, Office of Toxic Substances.

[FR Doc. 88–9409 Filed 4–27–88; 8:45 am]

BILLING CODE 6560–50–M

[FRL. 3371–1]

Proposed Administrative Penalty Assessment and Opportunity to Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed administrative penalty assessment and opportunity to comment.

SUMMARY: EPA is providing notice of a proposed administrative penalty assessment for alleged violations of the Clean Water Act. EPA is also providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue such orders after the commencement of either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessments pursuant to 33 U.S.C. 1319(g)(4)(a).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation and Suspension of Permits, 40 CFR Part 22. The procedures through which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty days after issuance of public notice.

On the date identified below, EPA commenced the following Class II proceeding for the assessment of penalties:

In the Matter of Jones Ford—Mercury, Inc., Wickenburg, Arizona; EPA Docket No. IX–FY88–21; filed on April 26, 1988, with Barbara Dimanlig, Acting Regional Hearing Clerk, U.S. EPA, Region 9, 215 Fremont St., San Francisco, California 94105, (415) 974–0718; proposed penalty up to $125,000 for discharging to Waters of the United States without an NPDES permit.

FOR FURTHER INFORMATION: Persons wishing to receive a copy of EPA's Consolidated Rules, review the complaint or other documents filed in this proceeding, comment upon a proposed assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above. The administrative record for this proceeding is located in the EPA Regional Office identified above, and the file will be open for public inspection during normal business hours. All information submitted by the respondent is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA

will issue no final order assessing a penalty in these proceedings prior to May 27, 1988.

Dated: April 20, 1988.

Harry Seraydarian,

Director, Water Management Division.

[FR Doc. 88-9411 Filed 4-27-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Requirement Approval by Office of Management and Budget

April 20, 1988.

The following information collection requirements have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). For further information contact Doris Benz, Federal Communications Commission, telephone (202) 632-7513.

OMB No.: 3060-0012

Title: Application for Additional Time to Construct a Radio Station (Under Parts 21, 23, and 25)

Form No.: FCC 701

A revised application form FCC 701 has been approved for use through 3/31/91. This revised version will be used by common carrier applicants only. The April 1985 edition with a previous expiration date of 3/31/88 will remain in use for both broadcast and common carrier applicants until the revised forms are available. At that time, a Public Notice will be issued containing information on availability and implementation for common carrier applicants. A separate Public Notice will be issued containing information for broadcast applicants.

OMB No.: 3060-0049

Title: Restricted Radiotelephone Operator Permit Application and Temporary Restricted Radiotelephone Operator Permit.

Form No.: FCC 753

The approval on form FCC 753 has been extended through 3/31/91. The June 1985 edition with an expiration date of 5/31/88 will remain in use until updated forms are available.

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88-9348 Filed 4-27-88; 8:45 am]

BILLING CODE 6712-01-M

Common Carrier Bureau Opens Filing Period for Multichannel MDS Applications

This is a summary of a Common Carrier Bureau Public Notice, DA 88-562, released April 20, 1988. The full text of this public notice is available for inspection and copy in the FCC Domestic Facilities Division Public Reference Room, Room 6220, 2015 M St. NW., Washington, DC. This Reference Room is open to the public Monday-Thursday between 8:30-12:30 and 1:30-3:00. The complete text of this public notice may also be purchased from the Commission's contractor, ITS, Inc. Suite 140, 2100 M Street NW., Washington, DC 20037, (202) 857-3800. For further information concerning this Public Notice, contact Theodore Waddell of FCC staff at (202) 634-1706.

In accordance with 47 CFR 21.901(d)(4), NOTICE is hereby given that commencing April 20, 1988 applications for the Multichannel Multipoint Distribution Service (MMDS) may be submitted for filing for any location which is father than 50 miles from any proposed location of MMDS applications pending on April 19, 1988 or MMDS licensed facility locations. These locations must be farther than 15 miles from the boundary of a statistical area for which there are MMDS applications pending on April 19, 1988. Applications filed must comply with the location restrictions contained in this *Notice*. We do not anticipate granting any waivers of this location requirement. Applications that fail to comply with this requirement will be dismissed as unacceptable for filing. Applications submitted for filing must comply with the filing requirements of 47 CFR Parts 1 and 21, and two Public Notices released January 15, 1988: "Clarification of Part 21 Application Forms" (DA 87-1696, Report No. 1266) and "Clarification of Part 21 Filing Fee Requirements" (DA 87-1695, Report No. 1265). *See Part 21 Revision Order*, 2 FCC Rcd 5713 (1987); *MDS Status Election Order*, 2 FCC Rcd 4251 (1987).

Prospective MMDS applicants are advised that this public notice specifically addressed the following issues:

1. *Filing Date.* MMDS applications will be accepted for filing on April 20, 1988, and thereafter. This filing period will remain open until further notice by the Commission.

2. *Service Areas.* Applicants must specify the proposed *primary service area* in Item number 5(j) of FCC Form 435. Failure to so designate in accordance with the procedures described in the complete text of the public notice may result in the dismissal of the application as unacceptable for filing. Each application will be entitled to comparative consideration or to be included in a lottery in only one such service area. *See* § 21.901(d)(5). Each applicant will be allowed to file *only* a single application for either E-group or F-group channels in each area. *See* § 21.901(d)(2).

(A) *Statistical Areas. See* 94 FCC 2d 1203, 1263 n.43 (1983). Applicants should consult the list of classifications of the nation's statistical areas compiled by the Office of Management and Budget (OMB), "Metropolitan Statistical Areas", as revised on June 30, 1983. In particular, those applicants proposing to locate transmitters in or within 15 miles of the border of a Metropolitan Statistical Area (MSA), Consolidated Metropolitan Statistical Area (CMSA), or New England County Metropolitan Area (NECMA) should list in Item number 5(j) the *first* named city of the statistical area title as provided in OMB's list. The OMB list of MSAs, CMSAs, and NECMAs is available for review in the Domestic Facilities Division Public Reference Room, or may be purchased from National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, (703) 487-4650. Order #PB 832 18891.

(B) *Non-Statistical Areas.* In addition to those service areas provided in OMB's list of MSAs, CMSAs, and NECMAs, applications may be filed for a service area not identified by OMB as either an MSA, CMSA, or NECMA. Issues of mutual exclusivity for applications not proposing to serve either an MSA, CMSA, or NECMA will be resolved using 47 CFR Part 21 rules other than §21.901(d)(5.

3. *Cut-off Date. See* CFR 21.31.

4. *Permissible Service Operations. See MDS Status Election Order*, 2 FCC Rcd 4251 (1987); *see also* 47 CFR 21.900.

5. *Acceptable for filing. See* 47 CFR 21.13 and 21.20; *see also* 47 CFR 21.31 and 21.33 of the Rules. Applicants are advised that "lead" applications will not be accepted. A separate FCC Form 435 must be filed for each service area along with the required exhibits. Cross reference to "lead" applications will not be considered sufficient, and may result in the dismissal of the associated application as unacceptable for filing.

6. *Interference Studies.* At the time of filing, applicants must submit the required information studies. *See* 47 CFR 21.901(d)(1), 21.902, including 21.902(i).

7. *Site Availability. See* 47 CFR 21.15(a). MMDS applicants should note that, at the time of filing, it shall be sufficient if the application adequately

demonstrates reasonable assurance of the availability of the site. Subsequently, applicants chosen as tentative selectees in our random selection process must submit concrete evidence of site availability after their lottery selection. At that time, the submission of a lease or lease option agreement will satisfy that requirement. MMDS applicants not subject to our random selection process must submit a lease or lease option agreement as concrete evidence of site availability upon request. *See also* 47 CFR 21.40(b).

8. *Financial Certification.* All applications must include a financial certification. *See* 47 CFR 21.15(a); *see also* 47 CFR 21.40(b).

9. *Preferences.* Applicants who may be eligible to claim lottery preferences are required to submit FCC Form 346 for all applications for which a preference is being claimed. *See* 47 CFR 1.1621, 1.622, 1.1623, 1.824 and 21.900; *see also* 93 FCC 2d 952 (1983); 50 FR 5983 (Feb. 13, 1985). An applicant filing multiple MMDS applications may submit a single FCC Form 346 (an original and a duplicate)(if it is claiming the same preference for all its applications. If an applicant is claiming different preferences for its applications, it should submit a separate FCC Form 346 (original and duplicate) for each set of applications for which it is claiming the same preference.

10 *Amendments. See* 47 CFR 21.23 and 21.29. Applicants are requested not to submit any amendments before their applications have appeared on Public Notice as accepted for filing, unless asked to do so by the Commission's staff. Amendments should include the official FCC file numbers assigned to those applications. File numbers may be obtained from the Public Notices listing applications as accepted for filing.

11. *Filing Fees. See* 47 CFR 1.1105.

12. *Inspection and Copying.* A list of MMDS applications pending on April 19, 1988 is available for inspection in the Domestic Facilities Division Public Reference Room. Applications will not be available for inspection and copying before they appear on Public Notice as accepted for filing. Inspection inquiries may be directed to James Yancey of FCC staff at (202) 634-1858. For public record duplication, copies of applications must be requested from the applicants or from the Commission's contractor, ITS, Inc.

Federal Communications Commission

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88-9395 Filed 4-27-88; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1725]

Petitions for Reconsideration and Applications for Review of Actions in Rule Making Proceedings

April 22, 1988.

Petitions for reconsideration and applications for review have been filed in the Commission rule making proceeding listed in this Public notice and published pursuant to 47 CFR 1.429(e). The full text of these document are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor International Transcription Service (202-857-3800). Oppositions to these petitions and applications must be filed on or before May 16, 1988. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Beverly Hills, Chiefland, and Micanopy, Florida)

Number of petitions received: 1

Subject: Amendment to § 64.702 of the Commission's Rules and Regulations (Third computer Inquiry); and Policy and Rules Concerning Rates for Competitive Common Carrier Service and Facilities Authorizations Thereof. Communications Protocols under § 64.702 of the Commission's Rules and Regulations. (CC Docket No. 85-229, Phase II)

Number of petitions received: 2

SUBJECT: Amendment of § 73.606(b), Table of Allotments, Television Broadcast Stations. (Montrose and Scranton, Pennsylvania) (MM Docket No. 87-309, RM-5807)

Number of petitions received: 1

Application for Review

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Vero Beach, Florida) (MM Docket No. 86-284, RM-5273)

Number of applications received: 1

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88-9396 Filed 4-27-88; 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: 224-200110

Title: Port of Seattle Month-to-Month Terminal Lease

Parties: Port of Seattle, Jore Corporation

Synopsis: The proposed agreement provides for the lease of Terminal 115 facilities at the Port of Seattle by Jore Corporation on a Month-to-Month basis beginning April 1, 1988.

By Order of the Federal Maritime Commission.

Dated: April 22, 1988.

Joseph C. Polking,

Secretary.

[FR Doc. 88-9299 Filed 4-27-88; 8:45 am]

BILLING CODE 6730-01-M

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.: 202-000093-042

Title: North Europe-United States Pacific Freight Conference

Parties:

Hapag-Lloyd AG
Johnson Scanstar
Compagnie Generale Maritime

Incotrans BV
Sea-Land Service, Inc.

Synopsis: The proposed amendment would restate the agreement and would modify it to conform with the requirements of the Commission's Order concerning Conference Service Contracts.

Agreement No.: 203–011153–002

Title: Hanjin Container Lines, Ltd. Korea Shipping Corporation Facilitation Agreement

Parties:

Hanjan Container Lines, Ltd.
Korea Shipping Corporation

Synopsis: The proposed amendment would clarify that the parties' space chartering authority includes full vessel charters on a bareboat, time or voyage basis.

By Order of the Federal Maritime Commission.

Dated: April 25, 1988.

Joseph C. Polking,

Secretary.

[FR Doc. 88–9300 Filed 4–27–88; 8:45 am]

BILLING CODE 6730–01–M

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.: 202–010689–031.

Title: Transpacific Westbound Rate Agreement.

Parties:

American President Lines, Ltd.
Hanjin Container Lines, Ltd.
Hyundai Merchant Marine Co., Ltd.
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
A.P. Moller-Maersk Line
Mitsui O.S.K. Lines, Ltd.
Neptune Orient Lines, Ltd.
Nippon Yusen Kaisha, Ltd.
Orient Overseas Container Line, Inc.
Sea-Land Service, Inc.
Showa Line, Ltd.
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: The proposed amendment would conform the agreement to the Commission's requirements concerning service contract provisions.

Agreement No.: 202–010714–007.

Title: Trans-Atlantic American Flag Liner Operators.

Parties:

Farrell Lines Incorporated
Sea-Land Service, Inc.
Lykes Bros. Steamship Co., Inc.

Synopsis: The proposed amendment would conform the agreement to the Commission's requirements concerning service contract provisions. The parties have requested a shortened review period.

Agreement No.: 212–011186–001.

Title: SANTA/EMPREMAR Service Agreement.

Parties:

Empresa Naviera Santa, S.A.
Empresa Maritima del Estado

Synopsis: The proposed amendment would permit the parties to discuss and agree upon rates and other conditions of service. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: April 25, 1988.

[FR Doc. 88–9430 Filed 4–27–88; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Bayerische Vereinsbank Ag et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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 interest, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 18, 1988.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Bayerische Vereinsbank AG*, Federal Republic of Germany, and Vereins-UND WestBank Ag, Federal Republic of Germany; to engage *de novo* through their subsidiary, Vereinwest Capital Markets, Inc., Miami, Florida, in providing securities brokerage services, related securities credit activities pursuant to Regulation T, and incidental activities such as custodial services, individual retirement accounts, and cash management services pursuant to § 225.25(b)(15) of the Board's Regulation Y.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *St. James Bancorporation, Inc.*, Lutcher, Louisiana; to engage *de novo* through its subsidiary, SJB Mortgage Corporation, Lutcher, Louisiana, in making, acquiring, servicing, and warehousing loans or other extensions of credit of Company and for the account of others pursuant to section 225.25(b)(1) of the Board's Regulation Y. These activities will be conducted in the State of Louisiana.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Bellevue Capital Company*, Bellevue, Nebraska; to expand the nature of its mortgage banking activities which were previously approved under § 225.25(b)(1) of the Board's Regulation

Y by including in the activities the origination of mortgage loans. Comments on this application must be received by May 16, 1988.

2. *First National of Nebraska, Inc.*, Omaha, Nebraska; to engage *de novo* through its subsidiary, Collection Corporation of America, Omaha, Nebraska, in operating a collection agency pursuant to § 225.25(b)(23) of the Board's Regulation Y.

D. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Victoria Bankshares, Inc.*, Victoria, Texas; to engage *de novo* through its subsidiary, Bankshares Brokerage, Inc., Victoria, Texas, in discount securities brokerage activities including certain securities credit and incidental activities pursuant to § 225.25(b)(15) of the Board's Regulation Y. Comments on this application must be received by May 20, 1988.

Board of Governors of the Federal Reserve System, April 22, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-9303 Filed 4-27-88; 8:45 am]

BILLING CODE 6210-01-M

Harco Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 18, 1988.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Harco Bankshares, Inc.*, Harlan, Kentucky; to acquire 100 percent of the voting shares of the Guaranty Deposit Bank, Cumberland, Kentucky.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Citizens State Bancorp, Inc.*, New Baltimore, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens State Savings Bank, New Baltimore, Michigan.

2. *Grand Bank Financial Corporation*, Grand Rapids, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Grand Bank, Grand Rapids, Michigan.

Board of Governors of the Federal Reserve System, April 22, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-9304 Filed 4-27-88; 8:45 am]

BILLING CODE 6210-01-M

Peoples Bancorporation, et al.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 13, 1988.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Peoples Bancorporation*, Rocky Mount, North Carolina; to acquire Service Loan Company, Inc., d/b/a/ Thomaston Finance Company, Thomaston, Georgia; and thereby engage in originating and servicing small loans to individuals; selling credit life and accident and health insurance; and other activities normally associated with the origination, servicing and collection of small loans pursuant to §§ 225.25 (b)(1) and (b)(8) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 22, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-9305 Filed 4-27-88; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicaid Program; Hearing: Reconsideration of Disapproval of a California State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on June 15, 1988 in San Francisco, California to reconsider our decision to disapprove California State Plan Amendment 87-03.

Closing date: Requests to participate in the hearing as a party must be received by the Docket Clerk by May 13, 1988.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Hearing Staff, Bureau of Eligibility, Reimbursement and Coverage, 300 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 966-4470.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove California State Plan Amendment 87–03.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

This issues in this matter are wether California SPA 87–03 violates sections 1903(f), 1902(a)(4) and 1902(a)(19) of the Social Security Act and whether the plan amendment qualifies for protection under the provisions of section 2373(c) of the Deficit Reduction Act of 1984 as amended by section 9 of the Medicare and Medicaid Patient and Program Protection Act of 1987 (Pub. L. 100–93).

California SPA 87–03 relates to how the State determines eligibility for the medically needy under Medicaid. The State's plan amendment provides for disregarding as income all income above the medically needy income level which is paid to licensed bed and board facilities for care and supervision.

In general, the Medicaid statute requires States to use the eligibility criteria of the Supplemental Security Income (SSI) program in determining Medicaid eligibility of aged, blind, and disabled individuals and to use the rules of the Aid to Families with Dependent Children (AFDC) program in determining Medicaid eligibility of AFDC-related individuals. (Sections 1902(a)(10(A) and 1902(a)(10)(C)(i)(III) of the Act.)

In SPA 87–03, California proposed, as Supplement 1.5 to Attachment 2.6A, to treat as not available income the amount of income above the medically needy income level paid to licensed board and care facilities for care and supervision. This effectively created a disregard of the income above the specified level, since that income would not be counted in determining eligibility for Medicaid. The SSI program, in regulations at 20 CFR 416.1102, defines income as "anything you receive in cash or in kind that you can use for food, clothing, or shelter". The regulations at 20 CFR Part 416 Subpart K also specify those items and types of income which are excluded or disregarded by the SSI program in determining eligibility. The type of exclusion proposed by California is not included in the list of exclusions used by the SSI program. Thus, HCFA determined that California proposed to use an income disregard which is more liberal than that used by the SSI program. Section 1902(a)(10)(C)(i)(III) requires that States use the methodologies of the most appropriate cash assistance program in determining eligibility for the medically needy under Medicaid.

An additional disregard such as California proposes would normally be protected under the DEFRA moratorium as expanded and clarified by Congress via the Medicare and Medicaid Patient and Program Protection Act of 1987. However, under the new moratorium, more liberal disregards are protected, but only to the extent that a State's medically needy income level does not exceed the Federal Financial Participation (FFP) cap of 133 ⅓ percent of the State's AFDC payment level as mandated by section 1903(f) of the Act. California's proposed disregard could result in an individual's income under the medically needy program exceeding that cap; therefore, HCFA determined that such a disregard is not protected under the new moratorium, and violates the cap provision at section 1903(f) as well as section 1902(a)(4), as use of such a disregard resulting in exceeding the 133 ⅓ percent cap is not consistent with proper and efficient operation of the Medicaid plan, and section 1902(a)(19), as use of such disregard is not consistent with providing such safeguards as may be necessary to assure that eligibility will be determined in a manner consistent with simplicity of administration and the best interest of recipients.

The notice to California announcing an administrative hearing to reconsider the disapproval of its State plan amendment reads as follows:

April 22, 1988.

Kenneth W. Kizer, M.D., M.P.H.,
Director, California State Department of Health Services, 714 P Street, Room 1253, Sacramento, California 95814

Dear Dr. Kizer: This is to advise you that your request for reconsideration of the decision to disapprove California State Plan Amendment 87–03 was received on March 24, 1988.

California SPA 87–03 relates to how the State determines eligibility for the medically needy under Medicaid. The State's plan amendment provides for disregarding as income all income above the medically needy income level which is paid to licensed bed and board facilities for care and supervision.

You have requested a reconsideration of whether this plan amendment conforms to the requirements for approval under the Social Security Act and pertinent Federal regulations.

There are four issues in this matter. The first issue is whether the States' disregard exceeds the Federal Financial Participation (FFP) cap of 133/⅓ percent of the States AFDC payment level as mandated by section 1903(f) of the Social Security Act. The second issue is whether the States proposed disregard resulting in exceeding the 133/⅓ percent cap is consistent with the proper and efficient operation of the Medicaid plan as required by section 1902(a)(4). The third issue is whether use of such a disregard is consistent with providing such safeguards as may be necessary to assure that eligibility will be determined in a manner consistent with simplicity of administration and the best interest of recipients as required by section 1902(a)(19). The forth issue is whether is whether the plan amendment is protected by the moratorium provisions of the Deficit Reduction Act of 1984 as amended by the Medicare and Medicaid Patient and Program Protection Act of 1987 (P.L. 100–93).

I am scheduling a hearing on your request to be held on June 15, 1988 at 10:00 a.m. in the 21st Floor Conference Room, 100 Van Ness Avenue, San Francisco, California. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Stanley Krostar as the presiding officer. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 966–4470.

Sincerely,

William L. Roper, M.D.,
Administrator

cc:
Diane E. Shell, Deputy Director and Chief Counsel
Steve Koyasaka, Staff Attorney

(Section 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: April 22, 1988.

William L. Roper,

Administrator, Health Care Financing Administration.

[FR Doc. 88-9370 Filed 4-27-88; 8:45 am]

BILLING CODE 4120-03-M

National Institutes of Health

John E. Fogarty International Center for Advanced Study in the Health Sciences; Advisory Board Meeting

Notice is hereby given of a change in the meeting of the Fogarty International Center Advisory Board, May 24 and 25, 1988, Stone House (Building 16), National Institutes of Health which was published in the **Federal Register** on April 15 (53 FR 12604).

This meeting was to have been open to the public from 8:30 a.m. to 5 p.m. on May 24, but the time for the open meeting has been changed to 8:30 a.m. to 3 p.m.

The remainder of the meeting will be closed to the public until adjournment on May 25 for the review, discussion, and evaluation of research fellowship applications.

Dated: April 22, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88-9426 Filed 4-27-88; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute, Clinical Applications and Prevention Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Epidemiology and Clinical Applications, National Heart, Lung, and Blood Institute, National Institutes of Health, on June 1-2, 1988, in the Federal Building, Conference Room B119, 7550 Wisconsin Avenue, Bethesda, Maryland 20892.

This meeting will be open to the public on June 1 from 9 a.m. to recess and from 8:30 a.m. to adjournment on June 2 to discuss new initiatives, program policies, and issues. Attendance by the public will be limited to space available.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4236, will provide a summary of the meeting and a roster of committee members upon request.

Dr. William R. Harlan, Director, Division of Epidemiology and Clinical Applications, Federal Building, Room 212, Bethesda, Maryland 20892, (301) 496-2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: April 20, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88-9427 Filed 4-29-88; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

National Institutes of Health; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently at 53 FR 4458, February 16, 1988) is amended to reflect the following changes in the Office of the Director, NIH: Establish (1) the Office of AIDS Research (HNA5); and (2) the Office of Human Genome Research (HNAB). The establishment of these offices is in response to the health crisis precipitated by the rapid spread of the Acquired Immunodeficiency Syndrome (AIDS); and in recognition of the high priority placed on mapping and sequencing complex genomes.

Section HN-B, Organization and Functions is amended as follows: (1) After the statement for the *Office of Intramural Research (HNA4)*, insert the following:

Office of AIDS Research (HNA5). (1) Advises the Director, NIH, and senior staff on the development of NIH-wide policy related to AIDS research, and coordinates NIH Intramural and extramural AIDS research activities; (2) provides the Chairperson for the NIH AIDS Executive Committee and represents the Director, NIH, on all outside AIDS-related committees requiring NIH participation; (3) provides staff support to the NIH AIDS Executive Committee and the NIH AIDS Advisory Committee; (4) recommends intramural/extramural AIDS research priorities to the Director, NIH; (5) develops an NIH annual plan and budget for AIDS research; (6) develops policy on laboratory safety for AIDS researchers and monitors the AIDS surveillance program; (7) develops and maintains an information data base on intramural/extramural AIDS activities and prepares special or recurring reports as needed; (8) develops information strategies to assure that the public is informed of NIH AIDS research activities; (9) recommends solutions to ethical/legal issues arising from intramural/extramual AIDS research; (10) facilitates cooperation in AIDS research between government, industry, and universities; and (11) fosters and develops plans for NIH involvement in international AIDS research activities.

(2) After the statement for the *Division of Technical Services (HNAA8)*, under the heading *Office of Research Services (HNAA)*, insert the following:

Office of Human Genome Research (HNAB). (1) Advises the Director, NIH, and senior staff on all aspects of genomic analysis; (2) provides coordination, integration, review of progress, and planning in genomic analysis research; (3) formulates research goals and long-range plans with the guidance of the NIH Program Advisory Committee on Complex Genomes and the NIH Working Group on Complex Genomes; (4) serves as a focal point on genomic analysis research within NIH, other components of the Public Health Service, and other Federal agencies (e.g., DOE and NSF) by reviewing policy questions and coordinating plans for future research efforts; (5) provides an internal framework for the review and consideration of issues requiring the viewpoint of the biomedical research community; (6) develops plans for the centralized, systematic, targeted effort to create detailed maps of the genomes of organisms; (7) develops appropriate grant and contract solicitations;(8) establishes research goals and criteria for review of progress in meeting those goals; (9) sponsors scientific meetings and symposia to promote progress through information sharing; and (10) fosters national and international information exchange with industry and academia concerning research on complex genomes.

Date: April 18, 1988.

Robert E. Windom,

Assistant Secretary for Health.

[FR Doc. 88-9376 Filed 4-27-88; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-050-4410-04]

Arcata Resource Management Plan; Public Hearings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public hearings.

SUMMARY: In response to requests from the public, the Arcata Resource Area, Ukiah District, California, will hold two public hearings on the Arcata Resource Management Plan. The first hearing will be Monday, May 16, at the VFW building, 483 Conger Street, Garberville, California, from 7:00 p.m., until 10:00 p.m. The second meeting is scheduled for Tuesday, May 17, at the Red Lion Inn, 1929 4th Street, Eureka, California from 7:00 p.m. until 10:00 p.m.

FOR FURTHER INFORMATION CONTACT: John Lloyd, Arcata Resource Area Manager, 1125 16th Street, P.O. Box 1112, Arcata, California 95521. Telephone: (707) 822-7648.

Dated: April 18, 1988.

Edwin G. Katlas,

Acting District Manager, Ukiah.

[FR Doc. 88-9324 Filed 4-27-88; 8:45 am]

BILLING CODE 4310-40-M

[NV-930-08-4333-11; NV5-88-07]

Temporary Closure of Certain Public Lands in the Las Vegas District for Management of the Mint 400 off Highway Vehicle (OHV) Race; Nevada

ACTION: Temporary closure of certain Public Lands in the Las Vegas District, Clark County, Nevada, on and adjacent to the Mint 400 OHV race course, on April 30, 1988. Access will be limited to race officials, entrants, law-enforcement and emergency personnel, licensed permittees and right-of-way grantees.

SUPPLEMENTARY INFORMATION: Certain public lands in the Las Vegas District, Clark County, Nevada, will be temporarily closed to public access from 00:01 hours, April 30, 1988, to 06:00 hours May 1, 1988, to protect persons, property, and public land resources on and adjacent to the 1988 Mint 400 OHV race course. These temporary closures and restrictions are made pursuant to 43 CFR Part 8364.

The public lands to be closed or limited are those lands adjacent to and including roads, trails, and washes identified as the 1988 Mint 400 OHV race course. The following lands limited or closed are described as: Sheep Mountain Area; T.25S., R.59E., all of sections 35, and 36; T.,26S., R.59E., all of section 1 and 2; T.26S., R.60E., all of sections 1, 3, 4, 5, 6, 12, 13, 21, 22, 23, 24, 25, 26, and 27; T. 26S., R.61E all of sections 6, 7, 18, 19, and 30. McCullough Pass area: T.25S., R.61E., all of sections 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, and 34. Pit areas will be established in authorized areas only. Pit No. 1: T.26S., R.60E., all of section 16; Pit No. 2 T.25S., R.60E. sec 26 and 36. Pit No. 3: T.25S., R.62E., all of section 18, 19, and 30. Pit No. 4: T.24S., R.62E., all of sections 24 and 25; T.24S., R.63E., all of sections 18, and 19; Pit No. 5: T.22S., R.63E., all of section 30 and 36. The Union Pacific Rail Road located just east of the Start/Finish; T.25S., R.59E., all of sections 25, 26, W¼ of 34, 35, and 36. T.26S., R.59E., all section 1, 2 and 3.

The above legal land descriptions are for public lands within Clark County, Nevada. A map showing specific areas closed to public access is available from the following BLM offices: The Las Vegas District Office, P.O. Box 26569, 4765 Vegas Dr., Las Vegas Nevada 89126 (702) 388-6403, and the Stateline Resource Area Office, P.O. Box 7384, 301 Stewart Ave., Las Vegas, Nevada 89125, (702) 388-6627.

Any person who fails to comply with this closure order issued under 43 CFR 8364 may be subject to the penalties provided in 43 CFR 8360.7.

Date: April 21, 1988.

Ben F. Collins,

District Manager, Las Vegas District.

[FR Doc. 88-9474 Filed 4-27-88; 8:45 am]

BILLING CODE 4310-HC-M

[CA-940-08-4111-15; CA 9612]

California; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Pub. L. 97-451, a petition for reinstatement of oil and gas lease CA 9612 for lands in Kern County, California, was timely filed and was accompanied by all required rentals and royalties accruing from February 1, 1988, 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 $10.00 per acre and 18-2/3 percent, respectively. Payment of a $500.00 administrative fee has been made.

Having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease effective February 1, 1988, subject to the original terms and conditions of the lease, as amended, and the increased rental and royalty rates cited above, and the reimbursement for cost of publication of this notice.

Fred O' Ferrall

Chief, Leasable Minerals Section.

Date: April 22, 1988.

[FR Doc. 88-9318 Filed 4-27-88; 8:45 am]

BILLING CODE 4310-40-M

[CO-940-88-4111-15; C-41471

Colorado; Proposed Reinstatement

Notice is hereby given that a petition for reinstatement of oil and gas lease C-41471 for lands in Rio Blanco County, Colorado, was timely filed and was accompanied by all the required rentals and royalties accruing from November 1, 1987, the date of termination.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5.00 and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee for the lease and has reimbursed the Bureau of Land Management for the estimated cost of this **Federal Register** notice.

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, as amended, (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease effective November 1, 1987, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Questions concerning this notice may be directed to Joan Gilbert of the Colorado State Office at (303) 236-1772.

Richard E. Richards,

Supervisor, Oil & Gas/Geothermal Leasing Unit.

[FR Doc. 88-9319 Filed 4-27-88; 8:45 am]

BILLING CODE 4310-JB-M

[WY-920-08-4111-15; W-106460]

Wyoming; Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of Pub. L. 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3(a) and (b)(1), a petition for reinstatement of oil and gas lease W-106460 for lands in Natrona County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5 per acre, or fraction thereof,

per year and 16 2/3 percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W-106460 effective October 1, 1987, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Patrica J. Wattles,

Acting Chief, Leasing Section.

[FR Doc. 88-9320 Filed 4-27-88; 8:45 am]

BILLING CODE 4310-22-M

[WY-920-08-4111-15; W-101003]

Wyoming; Proposed Reinstatement of Terminated Oil and Gas Lease

April 20, 1988.

Pursuant to the provisions of Pub. L. 97-451, 96 Stat. 2426-2466, and Regulation 43 CFR 3108.2-3(a) and (b)(1), a petition for reinstatement of oil and gas lease W-101003 for lands in Weston County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10 per acre, or fraction thereof, per year and not less than 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W-101003 effective August 1, 1987, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Patricia J. Wattles,

Acting Chief, Leasing Section.

[FR Doc. 88-9321 Filed 4-27-88; 8:45 am]

BILLING CODE 4310-22-M

[MT-060-4830-02]

Address Change; Great Falls Resource Area; Montana

AGENCY: Lewistown District, Bureau of Land Management, Interior.

ACTION: Notice of change of address.

SUMMARY: The following is the change of address for the Great Falls Resource Area: Bureau of Land Management, Great Falls Resource Area, P.O. Box 2865, 812 14th Street North, Great Falls, MT 59403.

EFFECTIVE DATE: May 15, 1988.

FOR FURTHER INFORMATION CONTACT: Douglas J. Burger, Area Manager, Great Falls Resource Area, Bureau of Land Management, 215 1st Ave. North, P.O. Drawer 2865, Great Falls, Montana 59403, (406) 727-0503.

Wayne Zinne,

District Manager.

Date: April 21, 1988.

[FR Doc. 88-9419 Filed 4-27-88; 8:45 am]

BILLING CODE 4310-DN-M

[AZ-010-07-4212-24]

Realty Action; Lease of Public Lands for Airport Purposes, Mohave County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; lease of public lands for airport purposes in Mohave county, Arizona.

SUMMARY: The following described public lands have been found suitable for lease to the Grand Canyon Bar Ten Ranch for airport purposes under the Act of May 24, 1928, as amended (49 U.S.C. Appendix 211-213).

Gila & Salt River Meridian

Beginning at a point 1,388.92 feet East of the SW corner of Sec. 14, T. 33 N., R. 9 W., Gila and Salt River Base & Meridian; thence N. 4°00'35" W. 5,590.83 feet; thence N. 85°59'25" E. 400 feet; thence S. 4°00'35" E. 1,500 feet; thence N. 85°59'25" E. 200 feet; thence S. 4°00'35" E. 500 feet; thence S. 85°59'25" W. 200 feet; thence S. 4°00'35" E. 3,618.87 feet; thence West 400.98 feet to point of beginning.

Containing approximately 53.76 acres.

Leasing these lands is consistent with applicable Federal and county land use plans and will help serve public needs for users of Colorado River excursions and the general public for air transportation. Persons wishing to obtain detailed information on the action including the terms and conditions of the lease may write the Shivwits Resource Area Manager, 225 North Bluff, St. George, Utah 84770.

This notice segregates the above described public lands from operation of the public land laws, including the mining laws. The segregative effect will end upon issuance of the lease or 1 year from the date of this publication, whichever occurs first.

For a period of 45 days from the date of this publication, interested parties may submit comments to the District Manager, Bureau of Land Management, Arizona Strip District Office, 390 North 3050 East, St. George, UT 84770. In the absence of any objections, the decision to approve this realty action will become the final determination of the Department of the Interior.

Raymond D. Mapston,

(Acting) Arizona Strip District Manager.

April 21, 1988.

[FR Doc. 88-9322 Filed 4-27-88; 8:45 am]

BILLING CODE 4310-32-M

[CA-060-08-7122-10-1018; CA-21583]

Realty Action; Exchange of Public and Private Lands in Los Angeles and Riverside Counties, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; exchange of public and private lands, CA 21583.

SUMMARY: The following described public lands in Los Angeles County have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1716):

San Bernardino Meridian, California

T. 5 N., R. 13 W.
Sec. 7: Lots 1, 2, and 5-9 inclusive.
T. 5 N., R 14 W.
Sec. 20: NE¼SE¼
Sec. 21: S½NE¼, SW¼NW¼, NW¼ SW¼.
Sec. 22: SW¼NW¼, NE¼NW¼.
Containing 389.28 acres, more or less.

In exchange for these lands, the United States will acquire the following described non-federal lands in Riverside County from The Nature Conservancy:

San Bernardino Meridian California

T. 4 S., R. 6 E.
Sec. 13: S½SW¼, S½NW¼SW¼, NW¼ NW¼SW¼.
Sec. 14: NW¼NW¼NE¼, S½NW¼NE¼, N½NW¼, SW¼NW¼.
Containing 260 acres, more or less.

SUPPLEMENTARY INFORMATION: The purpose of the exchange is to acquire a

portion of the non-federal lands within the 13,030 acre preserve for the Coachella Valley fringe-toed lizard. The lizard is federally listed as threatened and State listed as endangered. The Bureau of Land Management's goal is to acquire approximately 6700 acres of private land within the preserve. The acres being acquired do not constitute habitat for the lizard, but provide a sand source required for the continuing production of active sand dune areas that are critical habitat for the lizard. Other State and Federal agencies will acquire the remainig portions of the preserve. The public interest will be well served by completing this exchange.

The values of the lands to be exchanged are approximately equal; full equalization of values will be achieved through acreage adjustment, or by cash payment in an amount not to exceed 25% of the value of the lands being transferred out of federal ownership.

Lands to be transferred from the United States will be subject to the following reservations:

1. A reservation of the United States of a right-of-way for ditches or canals constructed by the authority of the United States, under the Act of August 30, 1890 (43 U.S.C. 945).

2. Those rights for an electric transmission line and access road granted by the United States to the City of Los Angeles, Department of Water and Power, its successors or assigns, under the Act of October 21, 1976 (43 U.S.C. 1761); Grant No. CA–4950.

3. Those rights for a television antenna granted by the United States to Cable Vision, Inc., its successors or assigns, under the Act of March 4, 1911 (43 U.S.C. 961); Grant No. LA–0159998. Affects only section 21.

Publication of this notice in the **Federal Register** segregates the public lands from operation of the public land laws and the mining law, except for mineral leasing. The segregative effect will end upon issuance of patent or two years from the date of publication, whichever occurs first.

For detailed information concerning this exchange, including the environmental assessment and land report, contact John Sullivan, BLM Indio Resource Area Office, (619) 323–4421.

For a period of 45 days after publication of this Notice in the Federal Register, interested parties may submit comments to the District Manager, California Desert District, 1695 Spruce Street, Riverside, California 92507. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

Date: April 19, 1988.

H.W. Riecken

Acting District Manager.

[FR Doc. 88–9323 Filed 4–27–88; 8:45 am]

BILLING CODE 4310–40–M

[MT–930–08–4212–13; MTM 70647]

Conveyance of Public Land in Powell, Lewis and Clark, and Broadwater Counties; MT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice informs the public and interested state and local government officials of the completion of a land exchange and issuance of the conveyance documents. The land acquired in the exchange has high recreation and historic value, and is located in the Garnet Ghost Town area.

FOR FURTHER INFORMATION CONTACT: Edward H. Croteau, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–657–6082.

SUPPLEMENTARY INFORMATION:

1. Notice is hereby given that pursuant to section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716), the following described lands were transferred to the parties shown:

Principal Meridian, Montana

Donald R. Beck:

T. 9N., R. 11 W.,
Sec. 14, NW¼NW¼.

Lawrence L. Beck & Marjorie D. Beck as tenants in common:

T. 10 N., R. 9 W.,
Sec. 25, S½NW¼, W½SW¼.

Patricia G. Hansen & James I. Hansen, Husband & Wife, & John T. Lingenfelter:

T. 9 N., R. 11 W.,
Sec. 24, SW¼SW¼.

X-Diamond Bar Ranch, Inc.:

T. 10 N., R. 14 W.,
Sec. 26, SW¼SW¼.

Joseph P. McGillis & Michael G. McGillis:

T. 9 N., R. 10 W.,
Sec. 26, W½W½.

William L. McIntosh & Jill M. McIntosh:

T. 10 N., R. 8 W.,
Sec. 2, SW¼SE¼.

RV Ranch Company:

T. 9 N., R. 6 W.,
Sec. 8, NE¼NE¼.

Martin J. Settle & Adeline M. Settle:

T. 12 N., R. 5 W.,
Sec. 27, SW¼SW¼, S½SE¼SE¼.

Charles G. Baum & Harry C. Baum:

T. 9 N., R. 1 W.,
Sec. 34, SE¼SE¼.

Edna R. Schatz:

T. 11 N., R. 5 W.,
Sec. 28, lot 5.

John J. Lyndes:

T. 11 N., R. 4 W.,
Sec. 22, lot 1.

Robert G. Hawe & Marilyn June Miller:
A ⅞ interest in the following described land:

T. 12 N., R. 14 W.,
Sec. 3, Tract 1 of the Homestake Lode mining claim, M.S. 6970.

Total acreage patented—685.75 acres plus a ⅞ interest in 2.891 acres.

2. In exchange for the above lands, the United States acquired the following described lands:

Principal Meridian, Montana

T. 12 and 13 N., R. 14 W.,
M.S. 6971 (Sierra Lode);
M.S. 6972 (Forest Lode);
M.S. 6973 (Cleveland Lode);
M.S. 6974 (Austin Lode);
M.S. 6975 (Gold King Lode);
M.S. 6970 (Homestake Lode) *Less and Except* A 2.891 acre tract in the southwest corner, described as Tract 1.

Aggregating 77.919 acres, more or less.

James Binando,

Acting Deputy State Director, Division of Lands and Renewable Resources.

April 20, 1988.

[FR Doc. 88–9317 Filed 4–27–88; 8:45 am]

BILLING CODE 4310–DN–M

[WY–030–08–4212–14; W–81328]

Realty Action; Sale of Public Land; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice or realty action, rescheduling of competitive sale of public land in Laramie County.

SUMMARY: The Bureau of Land Management has reappraised and is reoffering the following described public land for sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 (1982). The land was originally offered for sale by Notice of Realty action W–81328 published September 24, 1985, in the **Federal Register** (50 FR 38717):

Sixth Principal Meridian

Parcel No. 1: W–81328 A
T 14 N., R. 69 W.,
Sec. 4, lot 3.
Acreage: 38.90
Appraised Fair Market Value: $5,386
Parcel No. 2: W–81328 B
T. 14 N., R. 69 W.,
Sec. 4, lot 2.
Acreage: 38.97
Appraised Fair Market Value: $5,260

Parcel No. 3: W-81328 C
T. 14 N., R. 69 W.,
Sec. 4, lot 1.
Acreage: 38.98
Appraised Fair Market Value: $5,262
Parcel No. 4: W-81328 D
T. 14 N., R. 69W.,
Sec. 4, SE1/4/NE1/4.
Acreage: 40.00
Appraised Fair Market Value: $5,400

FOR FURTHER INFORMATION CONTACT: Mick Kaser, Rawlins District Office, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301, 307-324-7171.

SUPPLEMENTARY INFORMATION: The above described parcels are unimproved rangeland located approximately twenty miles west of Cheyenne, Wyoming, and adjacent to Table Mountain Estates, a rural residential development. The parcels are surrounded by private grazing lands and rural homesites. Disposal of the land is consistent with the Bureau's land use plan for the area.

Publication of this notice in the **Federal Register** shall segregate the above described land from all forms of appropriation under the public land laws, including the mining laws. The segregative effect shall terminate upon conveyance of the land, upon publication of a notice of termination of the segregation in the **Federal Register**, or 270 days from the date of publication of this notice.

Conveyance of the above land will be subject to:

1. Reservation of a right-of-way for ditches or canals pursuant to the Act of August 30, 1890;
2. Reservation of all minerals to the United States;
3. W-40660, an 80-foot right-of-way for Laramie County Road 109. (Parcel 1 only)
4. W-77432, an oil and gas lease. (All parcels)
5. W-88934, a 40-foot right-of-way reserved for public access and use of the people of the United Sates. (All parcels)
6. W-89121, a 25-foot right-of-way for an access road. (Parcel 1 only)
7. W-886482, a 40-foot right-of-way for an access road. (Parcels 1 and 2)
8. W-079242 and C-063605, a 215-foot right-of-way reserved for the Department of Energy—Western Area Power Administration—2 powerlines. (Parcels 1, 2, and 4)
9. A road dedicated to use by the general public as shown on plat of survey entitled Exhibit A, approved 1/18/85 and recorded in Laramie County. (Parcels 1, 2, 3 and 4)

Qualified Bidders

Bidders must be U.S. citizens, 18 years of age or over, a State or a State instrumentality authorized to hold property, or, in the case of corporations, authorized to own real estate in Wyoming. High bidders will be required to furnish proof of bidder qualifications.

Bidding Procedures

Sealed bids must be mailed or delivered to the Rawlins District Office, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301, before 10:00 a.m. on June 15, 1988. Each bid must be accompanied by a certified check, postal money order, bank draft or cashier's check, made payable to the Bureau of Land Management for not less than 20 percent of the amount of the bid. Bids must be enclosed in a sealed envelope marked in the lower left-hand corner as follows: " Public Sale bid, Serial No. W-81328, Parcel No. ". Bids will not be accepted for less than the appraised fair market value listed for each parcel.

If two or more envelopes are received, each containing acceptable bids of the same amount for the same parcel, the highest qualifying bid shall be determined by supplemental sealed bidding.

The highest qualified bidder will be notified in writing and will be required to submit the remainder of the amount bid within 180 days from the date of sale. Failure to submit the full bid price within 180 days shall result in rejection of the bid and forfeiture of the bid deposit. All unsuccessful bids will be returned.

Any *unsold* parcels shall be available for purchase the second Wednesday of each month, beginning July 13, 1988, on a first-come, first-served basis, until sold or withdrawn from sale.

Michael J. Karbs,
Associate District Manager.
April 22, 1988.
[FR Doc. 88-9316 Filed 4-27-88; 8:45 am]
BILLING CODE 4310-22-M

[CO-942-08-4520-12]

Colorado; Filing of Plats of Survey

April 18, 1988.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m., April 18, 1988.

The plat (in 14 sheets) representing the dependent resurvey of portions of the subdivisional lines and certain mineral surveys and the survey of the subdivision on sections 7, 17, and 18, T. 3 S., R. 72 W., Sixth Principal Meridian, Colorado, Group No. 680, was accepted April 6, 1988.

The plat representing the dependent resurvey of a portion of certain mineral surveys and certain mineral segregation surveys in sections 27 and 34, T. 3 S., R. 74 W., Sixth Principal Meridian, Colorado, Group No. 695, was accepted April 4, 1988.

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.

Darryl A. Wilson,
Acting Chief, Cadastral Surveyor for Colorado.
[FR Doc. 88-9325 Filed 4-27-88; 8:45 am]
BILLING CODE 4310-JB-M

[MT-940-08-4520-11]

Montana; Land Resource Management

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of filing of plats survey.

SUMMARY: Plats of survey of the lands described below accepted March 31, 1988, will be officially filed in the Montana State Office effective 10 a.m. on June 2, 1988.

Fifth Principal Meridian, South Dakota

T. 107 N., R. 72 W.

The plat, in four sheets, represents the dependent resurvey of the south boundary and portions of the west boundary and subdivisional lines; and the survey of the subdivision of sections 27, 28, 29, 30, 31, 34, and 35, and the Lake Sharpe Reservoir boundary, Township 107 North, Range 72 West, Fifth Principal Meridian, South Dakota. The areas described are in Lyman and Buffalo counties.

Fifth Principal Meridian, South Dakota

T. 108 N., R. 73 W.

The plat, in six sheets, represents the dependent resurvey of portions of the south boundary and subdivisional lines; and the survey of the subdivision of certain sections and the Lake Sharpe Reservoir boundary, Township 108 North, Range 73 West, Fifth Principal Meridian, South Dakota. The areas described are in Hughes, Buffalo, and Lyman counties.

Fifth Principal Meridian, South Dakota

T. 108 N., Range 74 W.

The plat represents the dependent resurvey of a portion of the east boundary (Tenth Guide Meridian) and a portion of the subdivisional lines; and

the survey of the subdivision of sections 1, 2, 11, and 12, and the Lake Sharpe Reservoir boundary, Township 108 North, Range 74 West, Fifth Principal Meridian, South Dakota. The areas described are in Lyman and Hughes counties.

Fifth Principal Meridian, South Dakota

T. 108 N., R. 74 W.

The plat, in two sheets, represents the dependent resurvey of portions of the south boundary and subdivisional lines, and the subdivision of sections 30, 32, and 33; and the survey of the subdivision of sections 30, 32, and 33, and the Lake Sharpe Reservoir boundary, Township 108 North, Range 74 West, Fifth Principal Meridian, South Dakota. The areas described are in Lyman and Hughes counties.

Fifth Principal Meridian, South Dakota

T. 109 N., R. 73 W.

The plat represents the dependent resurvey of a portion of the Second Standard Parallel North through Ranges 73 and 74 West, and a portion of the subdivisional lines; and the survey of the subdivision of sections 32 and 33, and the Lake Sharpe Reservoir boundary, Township 109 North, Range 73 West, Fifth Principal Meridian, South Dakota. The areas described are in Hyde, Buffalo, and Lyman counties.

These surveys were executed at the request of the District Engineer, Omaha District, U.S. Army Corps of Engineers.

Fifth Principal Meridian, South Dakota

T. 106 N., R. 72 W.

The plat represents the dependent resurvey of a portion of the west boundary and a portion of the subdivisional lines; and the survey of the subdivision of section 18, Township 106 North, Range 72 West, Fifth Principal Meridian, South Dakota. The area described is in Lyman county.

Fifth Principal Meridian, South Dakota

T. 106 N., R. 73 W.

The plat represents the dependent resurvey of a portion of the south boundary of the Lower Brule Indian Reservation and a portion of the subdivisional lines; and the survey of the subdivision of section 6, Township 106 North, Range 73 West, Fifth Principal Meridian, South Dakota. The area described is in Lyman county.

Fifth Principal Meridian, South Dakota

T. 106 N., R. 74 W.

The plat represents the dependent resurvey of a portion of the east boundary (Tenth Guide Meridian), the north boundary, a portion of the south boundary of the Lower Brule Indian Reservation, and a portion of the subdivisional lines; and the survey of the subdivision of sections 1, 3, 4, and 5, Township 106 North, Range 74 West, Fifth Principal Meridian, South Dakota. The area described is in Lyman county.

Fifth Principal Meridian, South Dakota

T. 107 N., R. 74 W.

The plat, in three sheets, represents the dependent resurvey of a portion of the west boundary and a portion of the subdivisional lines; and the survey of the subdivision of certain sections, Township 107 North, Range 74 West, Fifth Principal Meridian, South Dakota. The area described is in Lyman County.

Fifth Principal Meridian, South Dakota

T. 107 N., R. 75 W.

The plat, in two sheets, represents the dependent resurvey of a portion of the south boundary and a portion of the subdivisional lines; and the survey of the subdivision of certain sections, Township 107 North, Range 75 West, Fifth Principal Meridian, South Dakota. The area described is in Lyman County.

These surveys were executed at the request of the Area Director, Bureau of Indian Affairs, Aberdeen Area Office.

Fifth Principal Meridian, South Dakota

T. 107 N., R. 73 W.

The plat represents the dependent resurvey of a portion of west boundary (Tenth Guide Meridian), a portion of the south boundary, and a portion of the subdivisional lines; and the survey of the subdivision of sections 30, 31, and 33, Township 107 North, Range 73 West, Fifth Principal Meridian, South Dakota. The areas described are in Hughes, Lyman, and Buffalo Counties.

Fifth Principal Meridian, South Dakota

T. 107 N., R. 73 W.

The plat, in four sheets, represents the dependent resurvey of a portion of the subdivisional lines and the subdivision of sections 15, 22, 23, and 24; and the survey of the subdivision of sections 4, 5, 7, 8, 15, 22, 23, 24, and 25, and the Lake Sharpe Reservoir boundary, Township 107 North, Range 73 West, Fifth Principal Meridian, South Dakota. The areas described are in Hughes, Lyman, and Buffalo Counties.

Fifth Principal Meridian, South Dakota

T. 107 N., R. 74 W.

The plat, in three sheets, represents the dependent resurvey of portions of the east boundary (Tenth Guide Meridian) and subdivisional lines, and the subdivision of sections 5 and 8; and the survey of the subdivision of sections 5, 8, 9, 11, 12, 16, and 17, and the Lake Sharpe Reservoir boundary, Township 107 North, Range 74 West, Fifth Principal Meridian, South Dakota. The area described is in Lyman County.

These surveys were executed at the request of the District Engineer, Omaha District, U.S. Army Corps of Engineers and the Area Director, Bureau of Indian Affairs, Aberdeen Area Office.

These plats of survey of T. 107 N., R., 72 W.; T. 108 N., R. 73 W.; T. 108 N., R. 74 W.; T. 108 N., R. 74 W.; T. 109 N., R. 73 W.; T. 106 N., R. 72 W.; T. 106 N., R. 74 W.; T. 107 N., R. 74 W.; T. 107 N., R. 75 W.; T. 107 N., R. 73 W.; T. 107 N., R. 73 W.; T. 107 N., R. 74 W.; Fifth Principal Meridian, South Dakota, will remain in the open file. If protest(s) against any of these surveys, as shown on these plats, are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). These particular plat(s) will not be offically filed until the day after all protests have been dismissed or accepted and become final or appeals from dismissal affirmed.

EFFECTIVE DATE: June 2, 1988.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

Ray Brubaker,

Acting State Director.

Dated: April 18, 1988.

[FR Doc. 88-9326 Filed 4-27-88; 8:45 am]

BILLING CODE 4310-DN-M

[MT-930-08-4220-10; SDM 20500]

Partial Termination of Proposed Withdrawal and Opening of Land; Supplemental Notice and Opportunity for Public Meeting; South Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; opening order.

SUMMARY: This notice terminates the segregative effect of a proposed withdrawal requested by the Department of Agriculture on 103.26 acres of national forest land which is being opened to mineral location and entry under the mining laws. It also offers an opportunity for comments and a public meeting in connection with 50 acres of land remaining in the proposal. The segregation from mineral location and entry under the mining laws continues for that land, but it remains open to mineral leasing.

DATES: The opening is effective May 31, 1988. Comments and requests for the public meeting must be submitted by June 27, 1988.

ADDRESS: Comments and meeting requests should be sent to the Montana

State Director, BLM, P.O. Box 36800, Billings, Montana 59107.

FOR FURTHER INFORMATION CONTACT: James Binando, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406-657-6090.

SUPPLEMENTARY INFORMATION: The notice of proposed withdrawal was published in the **Federal Register** on February 5, 1972 (37 FR 2793-2794). Additional notices involving application termination and an opportunity for a public hearing were published in the **Federal Register** on August 1, 1979 (44 FR 45268) and February 19, 1986 (51 FR 6043). The purpose of the proposed withdrawal is to protect a developed picnic ground and a recreation site. The protection is no longer needed for the recreation site.

1. The segregative effect is hereby terminated as to the following described land:

Black Hills Meridian

Black Hills National Forest

Mt. Roosevelt Recreation Site

T. 5 N., R. 3E.,

Sec. 16, lots 1, 3, 4, SW¼SE¼NE¼, W½NW¼SE¼SE¼, and NE¼SW¼SE¼.

Containing 103.26 acres in Lawrence County.

2. The segregation from mineral location and entry under the mining laws is continued for the following described land:

Black Hills Meridian

Steam Boat Rock Picnic Site

T. 2 N., R. 5 E.,

Sec. 1, S½NW¼SW¼, N½SW¼SW¼, and NW¼SE¼SW¼.

Containing 50 acres in Lawrence County.

3. At 9 a.m. on May 31, 1988, the land described in paragraph 1 will be opened to location and entry under the United States mining laws. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

4. For a period of 60 days from April 28, 1988, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Montana State Driector, BLM.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the State Director within 60 days from the date of publication of this notice. Upon determination by the State Director that a public meeting will be held, a notice of time and place will be published in the **Federal Register** at least 30 days before the schedule date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR Subpart 2300.

5. The National Forest system lands described in paragraph 2 will continue to be segregated as specified until October 20, 1991, unless the application is denied or canceled or the withdrawal is approved prior to that date.

James Binando

Acting State Director.

April 18, 1988.

[FR Doc. 88-9327 Filed 4-27-88; 8:45 am]

BILLING CODE 4310-DN-M

[WY-930-08-4220-11; WYW 2796, WYW 2797, WYW 32093, WYW 71385, WYW 71386, WYW 71391, WYW 71414, WYW 71891, WYW 71895]

Proposed Continuation of Withdrawals; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice will vacate and replace the notice of proposed continuation that was published in 49 FR 45497-45498, on November 16, 1984.

The Bureau of Reclamation proposes to continue the existing withdrawals on 16,398.94 acres of land at the Pathfinder Reservoir, for an additional 100 years. The remaining acreage in the existing withdrawals will be relinquished. The lands remain closed to mining, with the exception of 120 acres, which were opened to mineral location in 1941. All of the lands, with the exception of those within the National Wildlife Refuge withdrawal, have been and will remain open to mineral leasing.

DATE: Comments should be received by July 27, 1988.

ADDRESS: Comments should be sent to the Wyoming State Director, BLM, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82003.

FOR FURTHER INFORMATION CONTACT: Tamara Gertsch, BLM Wyoming State Office, 307-772-2072.

SUPPLEMENTARY INFORMATION: The Bureau of Reclamation proposes that parts of existing Secretarial Orders of September 21, 1903, January 27, 1904, October 10, 1905, January 20, 1932, June 25, 1940, and Public Land Order No. 5286 dated October 11, 1972, be continued for a period of 100 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The majority of the lands proposed for continuation are those lands that lie at or below the elevation of 5,850.1 feet in the following described subdivisions:

Sixth Principal Meridian

T. 26 N., R. 84 W.,
- Sec. 4, lots 3, 4, S½NW¼, W½SW¼;
- Sec. 5, lots 1, 2, S½NE¼, SE¼NW¼, SE¼;
- Sec. 8, NE¼NE¼;
- Sec. 9, W½NW¼, SE¼NW¼.

T. 27 N., R. 84 W.,
- Sec. 4, E½SW¼;
- Sec. 5, lots 2, 4;
- Sec. 6, lots 1-3, 5, SW¼NE¼, SE¼NW¼, E½SW¼, SE¼;
- Sec. 8, NW¼NW¼;
- Sec. 9, NE¼NW¼;
- Sec. 28, SW¼;
- Sec. 29, N½, N½SW¼, SE¼SW¼, SE¼;
- Sec. 30, NE¼, NE¼NW¼, N½SE¼;
- Sec. 32, E½, NE¼NW¼;
- Sec. 33, W½.

T. 28 N., R. 84 W.,
- Sec. 4, lots 2-4, SW¼NE¼, S½NW¼, S½;
- Sec. 5, lots 1-4, S½N½, N½SW¼, SE¼SW¼, SE¼;
- Sec. 6, lots 1-3, 5-7, S½NE¼, SE¼NW¼, E½SW¼, W½SE¼, NE¼SE¼;
- Sec. 7, lots 1-4, SW¼NE¼, E½W½, W½SE¼;
- Sec. 8, NE¼, N½NW¼, SE¼NW¼, SE¼SE¼;
- Sec. 9, all;
- Sec. 10, SW¼;
- Sec. 15, W½NW¼, SW¼;
- Sec. 16, N½, N½SW¼, SE¼SW¼, SE¼;
- Sec. 17, NE¼, SW¼;
- Sec. 18, lots 1-2, NW¼NE¼, E½NW¼;
- Sec. 19, E½NE¼, E½SW¼, W½SE¼;
- Sec. 20, SE¼NE¼, NW¼NW¼, E½SW¼, SE¼;
- Sec. 21, N½, N½SW¼, SE¼SW¼, W½SE¼;
- Sec. 28, W½;
- Sec. 29, N½, SE¼;
- Sec. 30, lots 1-2, NE¼NW¼;
- Sec. 31, SE¼SE¼;
- Sec. 32, E½, SW¼;
- Sec. 33, NW¼, W½SW¼.

T. 29 N., R. 84 W.,
- Sec. 5, S½NW¼, S½;
- Sec. 6, lots 5-7, S½NE¼, SE¼NW¼, SE¼SW¼, SE¼;
- Sec. 7, NE¼, NE¼NW¼, N½SE¼;
- Sec. 8, N½, NE¼SE¼;
- Sec. 9, W½NE¼, NW¼, S½;
- Sec. 16, W½E½, W½;
- Sec. 17, SE¼NE¼, E½SE¼;

Sec. 19, SE¼SE¼;
Sec. 20, NE¼NE¼, S½NE¼, SE¼NW¼, S½;
Sec. 21, W½, SW¼SE¼;
Sec. 22, S½NE¼, S½SW¼, SE¼;
Sec. 23, SW¼NE¼, W½W½SE¼NE¼, S½NW¼, SW¼, W½SE¼, W½E½SE¼;
Sec. 26, N½, NW¼SW¼, SW¼SE¼;
Sec. 27, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 28, E½, N½NW¼, SE¼NW¼, NE¼SW¼, S½SW¼;
Sec. 29, W½NE¼, W½, SE¼;
Sec. 30, NE¼NE¼;
Sec. 31, E½E½;
Sec. 32, all;
Sec. 33, N½, SW¼, W½SE¼;
Sec. 34, N½, SW¼;
Sec. 35, N½NE¼, NE¼NW¼, S½NW¼;
Sec. 36, W½NW¼, W½SW¼.
T. 28 N., R. 85 W.,
Sec. 1, SE¼NE¼, S½SW¼, SE¼;
Sec. 11, E½NW¼;
Sec. 12, N½, SW¼, NW¼SE¼;
Sec. 13, SE¼NE¼, NW¼NW¼;
Sec. 14, E½NE¼, SW¼NE¼, SE¼;
Sec. 23, NE¼, N½SE¼, SE¼SE¼;
Sec. 25, NE¼, NE¼NW¼.
T. 29 N., R. 85 W.,
Sec. 1, SE¼NE¼, S½;
Sec. 2, N½S½;
Sec. 3, N½S½;
Sec. 4, lots 1–2, S½;
Sec. 5, lot 3, SE¼NW¼, N½S½;
Sec. 12, NW¼NE¼, NW¼, N½SW¼.
T. 30 N., R. 85 W.,
Sec. 26, S½SW¼;
Sec. 27, S½NE¼, N½SE¼, SE¼SE¼;
Sec. 32, E½SE¼;
Sec. 33, S½SW¼, SE¼;
Sec. 34, E½NW¼, NE¼NE¼;
Sec. 35, N½;
Sec. 36, all.
T. 29 N., R. 86 W.,
Sec. 12, E½NE¼.

The area described aggregates 15,368.94 acres in Carbon and Natrona Counties.

The remaining land to be continued at all elevations contains the site administered by the Wyoming Game and Fish Commission, and the Bureau of Reclamation's operations area. The land is described as follows:

Sixth Principal Meridian

T. 26 N., R. 84 W.,
Sec. 9, SE¼, N½SW¼;
Sec. 10, W½SW.
T. 29 N., R. 84 W.,
Sec. 13, SW¼SW¼;
Sec. 14, S½S½;
Sec. 23, N½NE¼, NE¼NW¼, E½E½SE¼, E½SE¼NE¼, E½W½SE¼NE¼;
Sec. 24, W½NW¼, SE¼NW¼, SW¼, SW¼SE¼.

The area described aggregates 1,030 acres in Carbon and Natrona Counties.

The purpose of the withdrawal is to protect the Pathfinder Reservoir, North Platte Project. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuations, may present their views in writing to the Chief, Branch of Land Resources, in the Wyoming State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued, and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawals will continue until such final determination is made.

April 20, 1988.

Marlyn V. Jones,

Associate State Director.

[FR Doc. 88-9328 Filed 4-27-88; 8:45 am]

BILLING CODE 4310-22-M

[WY-930-08-4220-10; W-97431]

Proposed Withdrawal and Opportunity for Public Meeting: Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes to withdraw 320 acres of public lands in Natrona County, for protection of the Alcova Reservoir near Casper, Wyoming. This notice closes the land for up to 2 years from surface entry and mining. The land remain open to mineral leasing.

DATE: Comments and requests for a public meeting must be received by July 27, 1988.

ADDRESS: Comments and meeting requests should be sent to the Wyoming State Director, BLM, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82003.

FOR FURTHER INFORMATION CONTACT: Tamara Gertsch, BLM, Wyoming State Office, 307-772-2072.

On March 30, 1988, a petition was approved allowing the Bureau of Reclamation to file an application to withdraw the following public land described from settlement, sale, location, or entry under the public land laws, including the general mining laws, subject to valid existing rights:

Sixth Principal Meridian

T. 30 N., R. 83 W.,
Sec. 36, N½

The area decribed contains 320 acres in Natrona Country.

The purpose of the proposed withdrawal is to bring lands which are largely below the maximum water surface elevation (5500 feet mean sea level) into the area of the Alcova Reservoir.

For a period of 90 days from the date of publication of this notice, all persons who with to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR Subpart 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or cancelled, or the withdrawal is approved prior to that date. The temporary uses which will be permitted during the segregative period are those compatible with project use, as determined by the Bureau of Reclamation, and the development of oil and gas reserves without surface occupancy.

Marlyn V. Jones,

Associate State Director.

April 20, 1988.

[FR Doc. 88-9329 Filed 4-27-88; 8:45 am]

BILLING CODE 4310-22-M

[WY-930-08-4220-10; WYW 101818]

Proposed Withdrawal and Public Meeting; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

This notice will correct the Notice of Proposed Withdrawal published in Vol.

53, No. 72, Thursday, April 14, 1988, pages 12478–12479. The Notice is corrected by changing the following legal description:

Sixth Principal Meridian

1. Change the E½SE¼ of section 12 in T. 51 N., R. 89 W., to the W½SE¼.

2. Change the S½SW¼NW¼ of section 24 in T. 52 N., R. 89 W., to the S½SW¼NE¼.

Gilbert J. Lucero,

Acting State Director.

April 22, 1988.

[FR Doc. 88–9330 Filed 4–27–88; 8:45 am]

BILLING CODE 4310–22–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–295X]

The Indiana Railroad Co.; Abandonment Exemption Between Bloomington and Victor, in Monroe County, IN

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by Indiana Railroad Company of 6.66 miles of rail line between Bloomington and Victor, in Monroe County, IN, subject to standard labor protective conditions and environmental protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on May 28, 1988. Petitions to stay must be filed May 13, 1988, and petitions for reconsideration must be filed by May 25, 1988. Formal expressions of an intent to file an offer of financial assistance under 49 U S C. 1152.27(c)(2) must be filed by May 9, 1988.[1]

Request for a public use condition must be filed by May 9, 1988.

ADDRESSES: Send pleadings referring to Docket No. AB–295X to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: John H. Doeringer, 20180 Govenors Highway, Olympia Fields, Illinois 60461.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245. [TDD for hearing impaired: (202) 275–1721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289–4357/4359 (DC Metropolitan area), (assistance for the hearing impaired is available through TDD services (202) 275–1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

Decided: April 20, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Sterrett, Simmons, and Lamboley

Noreta R. McGee,

Secretary.

[FR Doc. 88–9344 Filed 4–27–88; 8:45 am]

BILLING CODE 7035–01–M

[1] *See Exemption or Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C. 2d (1987), and final rules published at 52 FR 48440 (1987).

[Finance Docket No. 31227]

The Pittsburgh and Lake Erie Railroad Co.; Exemption; Discontinuance of Trackage Rights in Lawrence County, PA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the requirements of 49 U.S.C. 10903, *et seq.*, the discontinuance of trackage rights by the Pittsburgh & Lake Erie Railroad Company over 4.1 miles of Conrail's track between milepost 19.2 at Harbor Bridge and milepost 23.3 at New Castle, in Lawrence County, PA, subject to standard labor protective conditions.

DATES: This exemption is effective on May 28, 1988. Petitions to stay must be filed by May 13, 1988, and petitions for reconsideration must be filed by May 23, 1988.

ADDRESSES: Send pleadings referring to Finance Docket No. 31227 to:

(1) Office of the Secretary, Case Control Branch Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: Deborah J. Somers, 1138 Six Penn Center Plaza, Philadelphia, PA 19103–2959.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245. [TDD for hearing impaired (202) 275–1721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289–4357/4359 (DC Metropolitan area), (assistance for the hearing impaired is available through TDD services (202) 275–1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

Decided: April 21, 1988.

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

Noreta R. McGee,

Secretary.

[FR Doc. 88–9345 Filed 4–27–88; 8:45 am]

BILLING CODE 7035–01–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency For International Development

Public Meeting on Mediterranean Fruitfly Eradication Program; Guatemala

The U.S. Agency for International Development (A.I.D.) has been requested to approve the use of Pub. L. 480 Title I generated local currency to support a Mediterranean Fruitfly eradication program in Guatemala, Central America. This program would include aerial spraying with baited malathion, sterile fly release, methyl bromide fumigation commodity treatment and spraying of vehicles passing through quarantine lines with d-phenothrin.

Prior to approving the use of local currency funds for this program, A.I.D. has determined that it will undertake a detailed environmental impact assessment (EIA). This six-month study began January 5, 1988 and will be completed by July 5, 1988. While not a legal requirement, in order to respond to public interest, A.I.D., in conjunction with the Guatemalan Presidential Commission on Environment (CONAMA) announce a public meeting to be hald in Guatemala City, Guatemala on May 26, 1988 to present preliminary findings of the assessment team. Total participation in the meeting will be limited to 100 people and it will be in the format of a three hour briefing concluded with a question and answer session. At the time the invitations are sent out, a five page summary of the draft EIA will be distributed to all meeting invitees. Written comments from either those attending or those unable to attend are invited and will be reviewed by the environmental impact assessment contractor (The Consortium for International Crop Protection), A.I.D. and the government of Guatemala. Comment format should include the commentor's name, organization,

address, a brief statement of why the commentor is interested in the environmental assessment and/or the eradication program, and then any constructive information or comments which may be of use in the environmental impact assessment process. Those interested in attending should write by May 20, 1988 to James Hester, Chief Environmental Officer, Bureau of Latin America and the Caribbean, Room 2239–NS, U.S. Agency for International Development, Washington, DC 20523. Those interested in commenting should submit their written comments no later than June 1, 1988.

Date: April 21, 1988.

James S. Hester,

Chief Environmental Officer, Bureau for Latin America and the Caribbean, U.S. Agency for International Development.

[FR Doc. 88–9314 Filed 4–27–88; 8:45 am]

BILLING CODE 6116-01-M

Meeting of Micro Enterprise Advisory Committee

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the A.I.D. Micro Enterprise Advisory Committee meeting on May 16–17, 1988 at the Grand Hotel, 2350 M Street NW., Washington, DC. 20037. The Committee will continue discussion, begun in its first meeting on March 28, of guidelines for the Micro-Enterprise Development Program of the Agency for International Development.

The meeting will begin at 9:00 a.m. on May 16 and continue through 5:00 p.m., then resume at 9:00 a.m. on May 17 and adjourn at 12:00 Noon. The meeting is open to the public. Any interested persons may attend, file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee and the extent the time available for the meeting permits.

Dr. Michael Farbman, Chief, Employment and Enterprise Development Division, Office of Rural and Institutional Development, Bureau for Science and Technology, is designated as the A.I.D. representative at the meeting. Dr. Ross E. Bigelow, of the same Division, may be deputized to act for Dr. Farbman during part or all of this meeting. It is suggested that those who wish more specific information concerning this meeting contact Dr. Bigelow, 1601 N. Kent Street, Arlington, Virginia 22209, or call 703–875–4623.

Michael Farbman,

A.I.D. Representative, Micro-Enterprise Advisory Committee.

Date: April 18, 1988.

[FR Doc. 88–9315 Filed 4–27–88; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act in United States v. George M. O'Bryan et al.

In accordance with Departmental policy, 28 CFR 50.7, and pursuant to section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9622(i), notice is hereby given that on April 15, 1988 a proposed Consent Decree in *United States* v. *George M. O'Bryan, et al.*, Civil Action No. C–87–0749–L–J, was lodged with the United States District Court for the Western District of Kentucky. The complaint in this CERCLA section 107, 42 U.S.C. 9607, cost recovery action was filed on December 11, 1987 against the past and present owner/operators of the site, 47 generators and 3 transporters of hazardous substances to recover from these defendants all costs incurred and to be incurred by the United States in responding to the release or threatened release of hazardous substances from an industrial solvent recovery and incineration facility located in Jefferson County, Kentucky known as the George M. O'Bryan/Liquid Waste Disposal of Kentucky Site. The complaint also sought a declaratory judgment, pursuant to 28 U.S.C. 2201, that the named defendants be held strictly, jointly and severally liable for all future response costs which may be incurred by the United States in connection with the site. The proposed Consent Decree ("Decree") provides that the Settling Defendants, CSX Transportation, Inc., Bulk Distribution Centers, Inc. and 56 other generator/transporter defendants reimburse, within 60 days of the entry of the decree, the United States $455,688.88 in past response costs, said sum representing 100% of the total costs and prejudgment interest incurred to date. The decree includes a provision whereby the United States covenants not to sue the Settling Defendants for reimbursement of response costs incurred by the United States at the George M. O'Bryan site up to and including the date of the entry of the decree. The decree does not release Settling Defendants from liability for any future response costs including, but not limited to, the costs of conducting a Remedial Investigation/Feasibility Study at the site or any future remedial action. The United States expressly reserves all claims, demands and causes of action, past or future, judicial or administrative, in law or equity including, but not limited to, cost recovery and injunctive relief and natural resource damages, against any person or entity, including the Settling Defendants, for matters not covered under the decree. Under the terms of the decree the Settling Defendants have resolved their liability to the United States for response costs to the date of entry of the decree and are not liable for claims of contribution regarding matters addressed in the Consent Decree.

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. The Department of Justice will consider any comments in determining whether or not to consent to the proposed settlement and may withdraw its consent to the proposed settlement if such comments disclose facts or considerations which indicate that the proposed Consent Decree is inappropriate, improper or inadequate. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States* v. *George M. O'Bryan, et al.*, D.J. Ref. No. 90–11–3–252.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the Western District of Kentucky, Bank of Louisville Bldg., 510 West Broadway, 10th Floor, Louisville, Kentucky 40202 and the Office of the Regional Counsel, U.S. Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365. Copies of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Room 1521, U.S. Department of Justice, 9th Street & Pennsylvania Avenue NW., Washington, DC 20530. In requesting a copy, please enclose a check in the amount of $7.50

payable to the Treasurer of the United States for production cost.

Roger J. Marzulla,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88-9331 Filed 4-27-88; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

[Docket No. 87-48]

Joe F. Schooler, M.D., Denial of Application for Registration

On May 5, 1987, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Joe F. Schooler, M.D., (Respondent), of 4833 B. Brentwood Stair Road, Fort Worth, Texas, seeking to deny his pending application for registration as practitioner, executed on January 26, 1987, on the ground that his registration would be inconsistent with the public interest.

On May 20, 1987, Respondent requested a three-month extension of time for requesting a hearing on the issues raised in the Order to Show Cause. Administrative Law Judge Francis L. Young granted Respondent's request and allowed him until August 31, 1987 to file a request for a hearing. On August 24, 1987, Respondent requested a hearing on the issues raised in the Order to Show Cause. Based upon Respondent's request for a hearing, the Administrative Law Judge ordered the Government to file a prehearing statement on or before September 25, 1987, and Respondent to file a prehearing statement on or before October 23, 1987. The Government filed its prehearing statement in a timely manner. On October 2, 1987, the Administrative Law Judge scheduled the hearing for November 19, 1987, in Fort Worth, Texas. On October 6, 1987, Respondent withdrew his request for a hearing on the issues raised in the Order to Show Cause in a letter which states "I will continue to do everything I can for my trusted patients in 'accordance with the laws, rules and regulations, and policy decisions applicable to all agencies.' " As a result of Respondent's withdrawal of his request for a hearing, the hearing was subsequently cancelled and the proceedings were terminated before the Administrative Law Judge on October 16, 1987.

In his defense, Respondent submitted a letter from Richard C. Keathley, his probation officer, dated August 26, 1987. That letter outlined Respondent's progress during probation under his supervision until August 5, 1986. The probation officer did not make any recommendations regarding Respondent's fitness for registration with the Drug Enforcement Administration, nor did he mention whether he was aware that Respondent was seeking registration.

Based upon Respondent's withdrawal of his request for a hearing, the Administrator concludes that he has waived his opportunity for a hearing, and enters this final order based upon the information contained in the investigative file and the record as it now appears, including Respondent's letter and the letter from Respondent's probation officer. 21 CFR 1301.54(d) and 1304.54(e).

The Administrator finds that Respondent has been the subject of complaints received in the DEA Dallas Field Division since 1975. All of the complaints received related to Respondent's practice of writing prescriptions for or dispensing various stimulant controlled substances. At that time, Respondent was one of the largest prescribers and dispensers of stimulant controlled substances in Northern Texas. The complaints alleged that Respondent ordered excessive quantities of controlled substances, including Biphetamine, Preludin, and Quaalude, stored the drugs in a safe deposit box in a Fort Worth bank, and on the weekends would travel to small communities south of Fort Worth to dispense controlled substances either out of the trunk of his car or from vacant buildings.

In December 1980, Respondent was contacted by DEA Diversion Investigators from the Dallas Field Division Office, officers from the Fort Worth Police Department, and an investigator from the Texas Board of Medical Examiners. At that meeting, he was informed that several complaints had been received regarding his controlled substance prescribing and dispensing practices. He also was warned that his prescribing and dispensing activities caused large quantities of stimulant controlled substances to enter the illicit drug market. In addition, he was told that, as a physician, he should only prescribe medications to patients when medically necessary, not simply at the request of a patient. In a later meeting, Respondent told DEA Diversion Investigators and Fort Worth police officers that he tried to convince patients that they needed drugs milder than Preludin, Desoxyn or Biphetamine, but they insisted that he give them the stronger stimulants. Again, Respondent was told that he should not prescribe medications to patients unless he was convinced they were medically necessary.

In 1982, DEA Diversion Investigators discovered that Respondent has been denied privileges in all of the Fort Worth area hospitals and had been denied membership in the Tarrant County Medical Society. Based upon his continued controlled substance prescribing and dispensing practices, Respondent became the target of a criminal investigation at that time. Between March 18 and November 9, 1982, investigators from the Texas State Board of Medicine and officers of the Fort Worth Police Department made ten undercover buys of stimulant controlled substances from Respodent. In exchange for cash, Respondent either wrote a prescription or dispensed the controlled substances to the undercover officers or investigators for other than legitimate medical purpose on each occasion. In addition, he falsified medical records for those individuals so that it would appear that he was prescribing and dispensing the controlled substances for weight loss, although none of the individuals was significantly overweight, nor expressed any specific interest in losing weight. On at least one occasion, Respondent did not charge the undercover officer for a visit or for the controlled substance prescription she received from him because he did not want any record of that visit.

On May 12, 1983, based upon the undercover controlled substance purchases discussed above, in the United States District Court for the Northern District of Texas, Fort Worth Division, Respondent was indicted on twelve counts of violating 21 U.S.C. 841(A)(1), a felony offense relating to controlled substances. In lieu of criminal prosecution on the indictment, Respondent and the United States Attorney executed an agreement for pretrial diversion on April 6, 1984. The terms of the agreement included a provision that Respondent surrender his controlled substances registration and never again apply for registration.

On June 27, 1983, the Texas State Board of Medical Examiners ordered that Respondent's medical license in that state be suspended for a period of six months, and that he be placed on probation for a period of ten years following the suspension period. The terms of the probation included the requirements that Respondent surrender his DEA Certificate of Registration and Texas Controlled Substances Registration Certificate, and that he not reapply for registration with either the Drug Enforcement Administration or the Texas Department of Public Safety

without first obtaining written permission from the Texas State Board of Medical Examiners. On December 23, 1986, the Texas State Board of Medical Examiners amended its June 27, 1983, order by granting Respondent permission to reapply for registration with the Drug Enforcement Administration and the Texas Department of Public Safety to handle only Schedule III, IV and V controlled substances.

On Janaury 26, 1987, Respondent executed a new application for registration with the Drug Enforcement Administration in Schedules III, IIIN, IV and V. On this application, Respondent indicated that he was then authorized by the state of Texas to handle controlled substances in the schedules for which he was seeking registration. Although the Texas State Board of Medical Examiners earlier granted him permission to seek registration with the Drug Enforcement Administration and the Texas Department of Public Safety, he had yet to receive his state controlled substance registation at the time he applied for his DEA Certificate of Registration. By indicating on his DEA application for registration that he was authorized by the state to handle controlled substances when he had yet to receive such authorization, Respondent falsified his DEA application for registration. In addition, Respondent failed to note on the application that he had previously surrendered his DEA Certificate of Registration pursuant to the agreement for pretrial diversion and order of the Texas State Board of Medical Examiners. This omission also constitutes a material falsification of his application for registration.

On February 11, 1987, the Texas Department of Public Safety issued Respondent a Texas Controlled Substance Registration Certificate allowing him to handle only Schedule III, IV and V controlled substances.

Based upon the foregoing information, the Administrator determines that Respondent's history of controlled substance prescribing and dispensing is reprehensible. By any legitimate standard or measure, his activities were wholly unacceptable. Since he previously was warned on at least two occasions that his prescribing and dispensing practices were unacceptable, Respondent's actions cannot be attributed to ignorance, but rather an international disregard for the law. After receiving the warnings, instead of correcting his past practices, Respondent simply attempted to "cover" his actions by falsifying medical records and having alleged patients sign statements. In addition, the extent of Respondent's avarice is substantiated by the numerous undercover purchases of controlled substances made from him for other than any legitimate medical purpose. Clearly, Respondent's greed more greatly influenced his controlled substance handling practices than the legitimate medical needs of his alleged patients. As a result of these inexcusable activites, Respondent was responsible for placing large quantities of controlled substances into the illicit drug market.

Although the letter submitted by Respondent's former probation officer states that Respondent complies with the terms of his probation, there is no indication that the officer was aware that Respondent had reapplied for registration to handle controlled substances, an action specifically prohibited under the terms of his pretrial diversion. Respondent specifically agreed never again to seek registration to handle controlled substances in exchange for dismissial of the then-pending criminal charges against him. Less than three years after executing that agreement, Respondent violated its terms by reapplying for a state controlled substance registration and DEA Certificate of Registration. Clearly, at the time he entered pretrial diversion, Respondent was willing to agree to any terms in an effort to avoid prosecution, yet once his probation period was completed, he quickly reneged on one of the crucial terms of the agreement. This action raises serious doubts as to Respondent's integrity and trustworthiness.

Furthermore, Respondent falsified his DEA application for registration, as was discussed previously. Since the Drug Enforcement Administration must rely on the trustfulness of information supplied by applicants in registering to handle controlled substances, falsification cannot be tolerated. In fact, any material falsification of an application for registration, even absent any other controlled substance violation, is sufficient to support the denial of the application, or the revocation of a registration approved based upon the submission of false information. See 21 U.S.C. 824(a)(1). In this instance, Respondent materially falsified his pending application for registration by claiming he was authorized to handle controlled substances in the state in which he sought registration with the Drug Enforcement Administration when he was not so authorized. In addition, by failing to indicate that he surrendered his previous DEA Certificate of Registration in accordance with an agreement to avoid criminal prosecution, and pursuant to a state medical board order, Respondent again falsified his application. Nor did Respondent indicate on his application that he had previously agreed never to apply for registration.

The fact that the State of Texas has partially reinstated Respondent's controlled substance handling privileges has little bearing on any action to be taken in this matter. There is no indication as to what information the state board considered in allowing Respondent to reapply for limited controlled substance handling privileges. The Administrator can make his decision on whether to register Respondent based only upon the evidence presented to him in this proceeding. In his submissions, Respondent presents no evidence that his pretrail diversion agreement has been rescinded, and no significant evidence that he now can be entrusted to properly handle controlled substances. To the contrary, Respondent's abhorrent history of handling controlled substances, and recent attempts to renege on his pretrial diversion agreement and to deceive the Administrator by providing false information and omitting material information from his application for registration, strongly support the positions that Respondent's registration would be inconsistent with the public interest and that his pending application for registration should be denied.

Having concluded that Respondent's application for registration should be denied, the Administrator of drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CR 0.100(b), hereby orders that the DEA New Application for Registration, executed on January 26, 1987, by Joe F. Schooler, M.D., and any other pending applications for registration by that individual be, and they hereby are, denied.

This order is effective April 28, 1988.

John C. Lawn,

Administrator.

Date: April 22, 1988.

[FR Doc. 88-9341 Filed 4-27-88; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Labor Research Advisory Council Committee; Meetings and Agenda

The regular Spring meetings of committees of the Labor Research Advisory Council will be held on May 10, 11, and 12. The meetings will be held in the Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC.

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of union research directors and staff members. The schedule and agenda of the meetings are as follows:

Tuesday, May 10, Room N-3437 A and B

9:30 a.m.—Committee on Prices and Living Conditions

1. International Price Program Monthly Pricing, IPP revision
2. Producer Price Index Computer project
3. Consumer Price Index Status report

1:30 p.m.—Committee on Wages and Industrial Relations, Room N-3437 A and B

1. Review of work in progress
2. The Office of Compensation and Working Conditions FY 1988 congressional budget and the President's FY 1989 budget
3. Results of the Temporary Help Survey
4. Report on the Bureau's first-time Survey of Employee Benefits in State and local governments
5. Other business

Wednesday, May 11, Room S-2217

9:30 a.m—Committee on Employment Structure and Trends

1. Review of budget situation—FY 1988 cuts and FY 1989 Congressional request
2. Need for review of employment and unemployment concepts and measures
3. Progress in developing a revision in local area unemployment statistics methodology
4. Status of the plant closing statistics program
5. Results of special BLS survey of day care practices in industry and plans for survey of substance abuse programs
6. Plans for improvements in the business establishment lists maintained by the Bureau
7. Status of the Standard Industrial Classification revision
8. Other business

1:30 p.m.—Committee on Productivity, Technology and Growth, Room S-2217

1. BLS work on measuring productivity in service industries
2. Current developments in multi-factor productivity
3. International Productivity Symposium III
4. Work on capital analysis
5. Work on productivity of older workers

Thursday, May 12, Room S-2217

1:30 p.m.—Committee on Occupational Safety and Health Statistics

1. Progress reports on implementing National Academy of Sciences recommendations
2. Fatality Project—NCHS/NIOSH
3. Electrical safety data
4. Revised guidelines plan
5. Inhalation Work Injury Report
6. Supplementary Data System
7. Bibliography of research on OSHA
8. Records check project
9. Other business

The meetings are open. It is suggested that persons planning to attend as observers contact Henry Lowenstern, Executive Secretary, Labor Research Advisory Council on (Area Code 202) 523-1327.

Signed at Washington, DC, this 21st day of April 1988.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 88-9298 Filed 4-27-88; 8:45 am]

BILLING CODE 4510-24-M

Employment and Training Administration

Job Training Partnership Act; Migrant and Seasonal Farmworker Programs; Proposed Planning Estimates

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of proposed State planning estimates and allocation formula; request for comments.

SUMMARY: The Employment and Training Administration is publishing the proposed State planning estimates for Program Year 1988 (July 1, 1988–June 30, 1989) for the Job Training Partnership Act Section 402 migrant and seasonal farmworker programs, the allocation formula and the rationale used in arriving at the planning estimates.

DATE: Written comments on this notice are invited and must be received on or before May 31, 1988.

ADDRESS: Written comments should be submitted to Mr. Paul A. Mayrand, Director, Office of Special Targeted Programs, Employment and Training Administration, U.S. Department, of Labor, Room N-4641, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. Charles C. Kane, Chief, Division of Seasonal Farmworker Programs. Telephone: (202) 535-0500.

SUPPLEMENTARY INFORMATION: As required by section 162 of the Job Training Partnership (JTPA), the Employment and Training Administration publishes for comment the proposed State planning estimates for migrant and seasonal farmworker programs in Program Year (PY) 1988 (July 1, 1988–June 30, 1989). The planning estimates reflect: (1) No hold-harmless provision; and (2) that States and territories which would receive less than $60,000 by application of the formula (Alaska, Rhode Island, and the District of Columbia) will receive no allotment, since the amount they would receive is deemed insufficient to effectively operate a program. Although the Department of Labor (Department) reserves the right not to allocate any funds for use in a State whose allocation is less than $120,000 in accordance with 20 CFR 633.105(b)(2), jurisdictions which would receive more than $60,000 but less than $120,000 (Delaware and New Hampshire) will be given an allocation of $120,000.

Section 402 grantees were selected for a two-year period on July 1, 1987. Since PY 1988 (July 1, 1988 to June 30, 1989), is the second year of the current two-year designation period, current grantees will be funded for PY 1988, unless the actions called for at 20 CFR 633.315 of the JTPA regulations (replacement, corrective action, termination) are appropriate. Applications, therefore, will not be accepted from other organizations.

Allocation Formula:

The Department is allocating the PY 1988 funding increase of $5,951,000 above the PY 1987 level in two increments of 50 percent each, i.e., the current section 402 formula will be used to allocate 50 percent and the other 50 percent of the increase will be allocated based on relevant Social Agricultural Worker data (as of March 3, 1988), provided by the Immigration and Naturalization Service (INS). While recognizing that those data have certain limitations, the Department views these allocation methods as a fair and reasonable approach to accommodating the intent of the Congress as expressed in House Conference Report No. 100-

256, page 64, dated July 30, 1987, which states that the increase "* * * will enhance the Department's ability to meet the demand for job training services among *currently eligible* migrants and seasonal farmworkers and to begin to address the needs of *newly eligible* persons." (emphasis ours).

Allotments:

The allotments set forth in the appendix to this notice reflect the allocation methods described above. These allocation methods are applied to a total amount to be distributed of $63,273,000. This figure represents the appropriated Fiscal Year 1988 (Pub. L. 100-202) level of $65,572,000 reduced by $2,299,000 which is being held in the JTPA section 402 national account. The migrant housing program and the Migrant Farm Labor Center in Hope, Arkansas, will be funded from the account.

Signed at Washington, DC, this 7th day of April 1988.

Roberts T. Jones,

Acting Assistant Secretary of Labor.

BILLING CODE 4510-30-M

Appendix

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
PY 1988 MSFW ALLOTMENT TO STATES
03-29-1988

	BASE		1/2 SUPPLEMENTAL		SAW		TOTAL
	DOLLARS	PERCENT	DOLLARS	PERCENT	DOLLARS	PERCENT	DOLLARS
Alabama	820,907	1.432	42,791	1.438	2,462	0.083	866,160
Alaska	0	0.000	0	0.000	0	0.000	0
Arizona	1,062,000	1.853	55,359	1.860	112,403	3.778	1,229,762
Arkansas	1,209,803	2.111	63,063	2.119	3,043	0.102	1,275,909
California	8,283,649	14.451	431,799	14.512	1,350,289	45.380	10,065,737
Colorado	748,430	1.306	39,013	1.311	33,813	1.136	821,256
Connecticut	192,032	0.335	10,010	0.336	1,880	0.063	203,922
Delaware	120,000	0.209	0	0.000	2,633	0.088	122,633
District of Columbia	0	0.000	0	0.000	0	0.000	0
Florida	3,625,815	6.325	189,002	6.352	631,240	21.215	4,446,057
Georgia	1,607,124	2.804	83,774	2.815	21,118	0.710	1,712,016
Hawaii	255,713	0.446	13,329	0.448	1,664	0.056	270,706
Idaho	844,322	1.473	44,012	1.479	45,745	1.537	934,079
Illinois	1,116,636	1.948	58,207	1.956	23,294	0.783	1,198,137
Indiana	807,155	1.408	42,074	1.414	2,530	0.085	851,759
Iowa	1,372,720	2.395	71,556	2.405	855	0.029	1,445,131
Kansas	700,484	1.222	36,514	1.227	4,467	0.150	741,465
Kentucky	1,423,392	2.483	74,197	2.494	718	0.024	1,498,307
Louisiana	828,340	1.445	43,179	1.451	2,211	0.074	873,730
Maine	342,437	0.597	17,850	0.600	399	0.013	360,686
Maryland	291,517	0.509	15,196	0.511	7,841	0.264	314,554
Massachusetts	298,083	0.520	15,539	0.522	2,530	0.085	316,152
Michigan	886,074	1.546	46,188	1.552	10,587	0.356	942,849
Minnesota	1,336,792	2.332	69,682	2.342	969	0.033	1,407,443
Mississippi	1,524,488	2.660	79,466	2.671	593	0.020	1,604,547
Missouri	1,145,998	1.999	59,738	2.008	1,687	0.057	1,207,423
Montana	701,847	1.224	36,585	1.230	251	0.008	738,683
Nebraska	798,111	1.392	41,602	1.398	2,530	0.085	842,243
Nevada	140,741	0.246	7,336	0.247	6,143	0.206	154,220
New Hampshire	120,000	0.209	0	0.000	103	0.003	120,103
New Jersey	271,075	0.473	14,130	0.475	17,471	0.587	302,676
New Mexico	491,974	0.858	25,645	0.862	35,489	1.193	553,108
New York	1,456,843	2.542	75,940	2.552	112,723	3.788	1,645,506
North Carolina	2,996,198	5.227	156,182	5.249	52,971	1.780	3,205,351
North Dakota	493,213	0.860	25,710	0.864	148	0.005	519,071
Ohio	942,320	1.644	49,121	1.651	4,034	0.136	995,475
Oklahoma	595,919	1.040	31,064	1.044	8,274	0.278	635,257
Oregon	881,861	1.538	45,969	1.545	93,861	3.154	1,021,691
Pennsylvania	1,230,245	2.146	64,129	2.155	24,366	0.819	1,318,740
Rhode Island	0	0.000	0	0.000	0	0.000	0
South Carolina	1,112,919	1.942	58,013	1.950	8,855	0.298	1,179,787
South Dakota	730,218	1.274	38,064	1.279	103	0.003	768,385
Tennessee	998,815	1.742	52,065	1.750	2,086	0.070	1,052,966
Texas	4,794,610	8.364	249,927	8.399	172,691	5.804	5,217,228
Utah	228,085	0.398	11,889	0.400	16,434	0.552	256,408
Vermont	224,244	0.391	11,689	0.393	46	0.002	235,979
Virginia	1,004,886	1.753	52,381	1.760	11,032	0.371	1,068,299
Washington	1,500,577	2.618	78,220	2.629	132,017	4.437	1,710,814
West Virginia	228,580	0.399	11,915	0.400	695	0.023	241,190
Wisconsin	1,282,651	2.238	66,860	2.247	1,858	0.062	1,351,369
Wyoming	208,881	0.364	10,889	0.366	1,288	0.043	221,058
Puerto Rico	3,043,276	5.309	158,637	5.331	5,060	0.170	3,206,973
FORMULA TOTAL	57,322,000	100.000	2,975,500	100.000	2,975,500	100.000	63,273,000
TA/HDUS.	2,299,000		0		0		2,299,000
GRAND TOTAL	59,621,000		2,975,500		2,975,500		65,572,000

[FR Doc. 88-9296 Filed 4-27-88; 8:45 am]

BILLING CODE 4510-39-C

[Training and Employment Guidance Letter No. 6-87]

Job Training Partnership Act; Program Guidance and Planning Schedule for Program Years 1988 and 1989

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration has issued Training and Employment Guidance Letter (TEGL) No. 6-87 (March 14, 1988) providing program guidance and a planning schedule for Job Training Partnership Act (JTPA) Titles II and III grants for Program Years (PYs) 1988 and 1989 (July 1, 1988–June 30, 1989; and July 1, 1989–June 30, 1990); respectively. TEGL No. 6-87 provides instructions for the submission of the Governor's Coordination and Special Services Plan and Statewide service delivery area job training plans. TEGL No. 6-87 is reprinted below for public information.

DATES: Training and Employment Guidance Letter No. 6-87 was effective on March 14, 1988.

FOR FURTHER INFORMATION CONTACT: Robert N. Colombo. Telephone (202) 535-0577.

Signed at Washington, DC, this 13th day of April, 1988.

Dolores Battle,

Administrator, Office of Job Training Programs.

Training and Employment Guidance Letter No. 6-87

Roberts T. Jones,

Acting Assistant Secretary of Labor.

Program Guidance and Annual Planning Schedule for Program Years 1988 and 1989 (Instructions for the Submission of the Governor's Coordination and Special Services Plans and Statewide Service Delivery Area (SDA) Job Training Plans)

1. *Purpose.* To transmit planning guidance to assist States in preparing for the Job Training Partnership Act (JTPA) 1988 Program Year (PY) which begins July 1, 1988 and PY 1989 which begins July 1, 1989.

2. *Background.* Pursuant to Section 121(a)(1) of the Act and 20 CFR 627.2 of the JTPA regulations, this document provides instructions to the States for the submission of the Governor's Coordination and Special Services Plan (GCSSP), instructions to selected States for the submission of the single statewide SDA job training plans and the Annual Planning Schedule for PYs 1988 and 1989.

This document is divided into six parts:

a. Planning Guidance for submission of GCSSPs;

b. Instructions for the GCSSP;

c. Planning Guidance for submission of Single Statewide SDA Job Training Plans;

d. Instructions for the Statewide Job Training Plan;

e. Procedures for Appeals to the Secretary; and

f. Annual Planning Schedule.

The planning instructions call for the development of new biennial GCSSPs covering PYs 1988 and 1989. Also included is guidance on performance standards information that States should address in the GCSSP.

With regard to single statewide SDA job training plans, the document addresses the period to be covered, the submittal date, petitions for disapproval, and the process for appealing a disapproval by the Secretary of a statewide plan.

The national ratio of economically disadvantaged youth to economically disadvantaged adults, as required by Section 203(b)(2) of JTPA, to enable States and SDAs to calculate Title II-A youth service levels, is provided.

Procedures issued previously for appealing disapprovals by the Governor on local job training plans are attached.

The format and procedures for submission of the GCSSP and single statewide SDA job training plan have not been revised. However, Item I, Enclosure I and Item II and Part B of Enclosure I have been revised to request more specific information, so that *we can obtain a more complete description* of the program being operated by the State.

2. *Department of Labor (DOL)/Employment and Training Administration Goals/Objectives for PY 1988/1989.*

The Department is encouraging Governors to consider the following goals and objectives in planning their activities for this period and in giving guidance to SDA planning. These goals and objectives are consistent with the objectives contained in the 1986 Amendments to JTPA.

- Increase the levels of service to the youth and adult at-risk populations.
- Encourage the development and inclusion of basic and remedial education components including literacy training, as essential elements in all JTPA programs.
- Improve overall program quality by encouraging the development of enriched, longer term program interventions combining several program activities and services in order to better serve those individuals most at-risk who have multiple needs.
- Strengthen program management through better oversight, increased fiscal responsibility and improved contracting practices.

3. *JTPA Coordination with other Federal Agencies.*

The GCSSP should describe coordination activities among State and local organizations, focusing on the areas of at-risk youth services and adult and youth literacy programs, specifying agencies working in coordination and elements of the program.

Provision for coordination with JTPA is being made in a growing number of related Federal laws. For example, amendments to the Wagner-Peyser Act, which authorized the public employment service, and to Title IV of the Social Security Act which authorizes the Work Incentive (WIN) program call for joint planning between administrators of Employment Service (ES) and JTPA and coordination of services between WIN and JTPA. The Carl D. Perkins Vocational Education Act, also encourages collaboration with JTPA through the offer of financial incentives.

To achieve maximum potential from current social services programs, coordination between the separate local agencies is essential. The local agencies are channeled funds through separate Federal agencies, although the target participants are often the same across programs. Coordination between agencies serves to increase the efficiency of the services they provide as well as maximizing the benefits of the resources allocated. Administrative costs can be reduced by directing one integrated program as opposed to several different programs.

Although actual coordination efforts must be realized at the State and local levels, Federal agencies may be able to demonstrate how such coordination and cooperation may occur. The Department of Labor (DOL) has several agreements with other Federal agencies which focus of demonstration projects. These projects are coordinated with other Federal agencies to provide training and employment services to participants eligible for other services such as welfare and vocational education.

Interagency agreements have been established between DOL and several other agencies at the Federal level with the purpose of providing integrated services to certain target populations. These agreements are designed to provide models of integrated services which may be replicated throughout the Nation. For example, Youth: 2000 is a part of a series of initiatives undertaken by the Department of Health and Human Services (HHS) and the Department of Labor to focus attention on at-risk youth. The two Federal agencies have jointly funded 13 projects to assist States in their efforts to help encourage young people to become economically and socially self-sufficient and prepare them to meet the demands of a changing society in the 21st Century.

In considering the populations served by these Agreements, the focus is on at-risk youth, including the homeless, runaways, and dropouts, youth and adults needing workplace literacy training, and older workers. Coordination at the local level should focus on services provided for these target populations by the local welfare and education agencies, local volunteer organizations, and private industry councils, as well as model programs already established, such as Cities in Schools, interagency agreement with HHS, Education Department (ED), and Department of Defense (DOD). Other examples of coordination are cited in TEIN No. 17-86, Model JTPA Programs for Recruiting and Serving Dropout Youth, which describes model JTPA programs in several States that focus on at-risk youth.

Following is a list of interagency agreements (IAGs) that the Department of Labor has engaged in with other Federal agencies which focus on at-risk youth:

1. IAG with Departments of Justice, ED and HHS and Cities in Schools, Inc.

—Emphasis on employability services for at-risk and dropout prone youth.

2. IAG with HHS

—17 projects from Coordinated Discretionary Funds grants competition: Youth: 2000

3. IAG with HHS

—Service Integration Pilot Projects.

—Focus on dropout prevention; teen parent centers and persons with developmental disabilities.

—Purpose is to develop models to be replicated in JTPA system.

The following are agreements which focus on literacy:

1. IAG with ED

—To produce booklet on "What Works in Workplace Literacy."

2. IAG with DOD and ED

—Adaptation of Job Skills Education Program, a computer assisted basic skill remediation program used in the military, for use in training JTPA participants.

—Pilot project to be conducted in 3 States initially.

3. IAG with ED

—To provide training to eligible family members of children participating in bilingual programs.

4. *Inquiries.* Direct inquiries to Robert N. Colombo at 202-535-0577.

5. *Attachments.*

PLANNING GUIDANCE

I. Governor's Coordination and Special Services Plan (GCSSP)

A. Background

The format for submitting the GCSSP has not been revised, from past procedures, however, the instructions have been revised (expanded) for PY 1988/1989.

B. Plan Submission

GCSSPs should be submitted using the OMB approved format contained in Enclosure I. Governors should submit three dated copies of the GCSSP, each with an original signature of the Governor or designee, no later than May 16, 1988, to: Dolores Battle, Administrator, Office of Job Training Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW. Room N4459, Washington, DC 20210.

The GCSSP, while not a "rollup" of SDA plans, must describe "the planned use of all resources for the next two years provided to the State and SDAs under this Act and must evaluate the experience over the preceding two years." (Section 121(a)(2)).

C. Performance Standards

Section IV of Enclosure Ia requests a description of the adjustments made in the Secretary's Performance Standards and the methods used in making the adjustments. (Section 121(b)(3))

D. Plan Review

The Department will check the GCSSP for overall compliance with the provisions of the Act and the JTPA regulations and will notify the State of the result of its review. The Department will discuss with the State any inconsistencies with the Act and/or regulations and any action to be taken prior to plan submittal. The Department and the State will also agree on a date for plan resubmittal should this be necessary.

E. Modifications

If major changes in the labor market conditions, funding or other factors occur during the period covered by the plan and it becomes necessary for the State to submit a modification to its GCSSP, the content and procedures contained in Enclosure IIb should be followed. For the purpose of these modifications, "major" is defined as a 20 percent cumulative change in any one of these factors.

F. Signature

Either the Governor or a designee shall affix original signatures to each of the three copies submitted. Where a Governor has delegated the signature authority, the delegation will remain unless rescinded by the sitting Governor.

G. Ratio of Disadvantaged Youth to Adults

Section 203(b) of JTPA provides that not less than 40 percent of available Title II-A funds shall be expended on youth, except where the ratio of economically disadvantaged youth to adults in the SDA differs from the national ratio, as published by the Secretary. Where the ratio differs, the amount to be spent on youth is to be reduced or increased proportionately in accordance with regulations prescribed by the Secretary (see Section 630.1(b)(2) of the JTPA regulations). In a letter transmitted previously to State liaisons, the Department indicated that: "According to the 1980 Census, the total number of economically disadvantaged youth (ages 16 through 21) for the Nation was 5,417,178. The comparable total for adults, ages 22 and over, was 23,625,720. The ratio of youth to adults is 22.93 percent." Since the Census figures have not been updated, the figure of 22.93 will continue to be the national ratio.

H. Planned Services to Dislocated Workers

Meeting the needs of American workers dislocated as the result of foreign competition, economic dislocation and other factors is an important element in improving the competitiveness of the American economy. Accordingly, States are requested to place special emphasis upon plans to serve dislocated workers and, as appropriate, to specifically address the following areas:

1. Plans to establish or enhance already established rapid response capacity such as the development of State dislocated worker units and/or rapid response teams to initiate program services, including emergency assistance centers and cooperative labor management committees, and the development of systems and techniques for the early identification of worker dislocations.

2. Plans to coordinate the delivery of services to dislocated workers under Title III with other training and employment programs such as the public employment service, Unemployment Insurance, and the Trade Adjustment Assistance program and with other programs including economic development. To the extent feasible, States are encouraged to consolidate the administration of the TAA program and the Title III program. Finally, States are requested to include any specific plans or activities which will be undertaken to coordinate services and activities with organized labor.

3. Plans to make effective use of limited Title III resources including, as appropriate, the substate allocation of such resources within the State or to service delivery areas for delivery of dislocated worker services, and the reallocation of Title III funds within the State to provide funds to the areas with greatest need and/or to areas in which funds may be most effectively utilized.

I. Appeals to the Secretary on Job Training Plans

Procedures for appeals to the Secretary on final disapproval by Governors of local job training plans were published in the **Federal Register** on September 12, 1983, and transmitted to States in a letter to State liaisons. For your convenience, attached is a copy of the previously transmitted procedures.

[Enclosure Ia; OMB Control No. 1205-0203; Expiration Date: June 30, 1990]

Planning Instructions—Format and Procedures for Submitting the Governor's Coordination and Special Services Plan (GCSSP)

The GCSSP shall contain:

I. Identifying Information

A. Name and address of the grantee.

B. Date of submission.

C. Time period covered.

II. Program Planning Information

A. Provide an overview of the goals and objectives for all Titles II and III job training and placement programs within the State. (Section 121(a)(1)).

B. Describe the criteria which have been established, for coordinating activities under the Act, including Title III (specifically address coordination under Section 323 of Carl D. Perkins with Title III activities) with: Program and services provided by State and local education and training agencies (including vocational education agencies), public assistance agencies, the employment service, rehabilitation agencies, post secondary institutions, economic development agencies, agencies which provide services to the homeless, and such other agencies as the Governor determines to have direct interest in employment and training and human resource utilization with the State. (Section 121(b)(1)).

III. Program Activities

A. Review and evaluate the State's program experience in Program Year 1986 and Program Year 1987. The evaluation should include: (1) A summary of the methods used by the State to track and require corrective action for SDAs underexpenditure and other performance problems; and the State's procedures for addressing underexpenditures in each program and title and an explanation of how this experience has contributed to decisions made regarding the activities to be funded in this plan. (Section 121(a)(2)).

B. Describe the projected use of resources, including oversight and support activities, priorities and criteria for State incentive grants and performance goals for State supported programs.

IV. Performance Standards

A. Describe the adjustments made in the Secretary's performance standards and the factors used in making the adjustments. (Section 121(b)(3)).

Including:

(1) The adjustment policy planned to be used to vary the standards;

(2) The data sources to be used; and

(3) The factors to be used in making the adjustments

B. Describe the State's incentive award policy pursuant to Section 202(b)(B) and sanctions policy pursuant to Section 106(h).

V. General Administrative Information

A. Compliance With Section 167 of JTPA

Provide a statement indicating that that State has adequate methods of administration to assure compliance with nondiscrimination provisions of the Act. (Section 167).

B. Signature

The GCSSP should contain the Governor's signature or the signature and title or his/her designee. The name of the signer should be typed below the signature.

C. Mailing Address

States should submit three copies of the GCSSP, each with original signature of the Governor or his/her designee to: Dolores Battle, Administrator, Office of Job Training Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4459, Washington, DC 20210.

Modification to GCSSP

If major changes occur in labor market conditions, funding or other factors during the period covered by the plan, the State shall submit a modification describing these changes. See Attachment IIb for the procedures to be followed in submitting such modifications. For the purposes of determining if a modification is necessary a major change is defined as a cumulative change of 20 percent of these factors in the plan. (See Attachment Ib for the procedures to be followed in submitting such a modification). (Section 121(b)(4)).

[Enclosure Ib]

Modification to the GCSSP

Section 121(b)(4) of the JTPA requires that a modification to the GCSSP be submitted by the Governor to the Secretary if major changes occur in labor market conditions, funding or other factors during the period covered by the plan. For the purpose of these modifications, a "major change" is defined as a 20 percent cumulative change in any one of these factors. That modification should be prepared as follows:

I. Identifying Information

A. The name and address of the grantee.

B. Date of submission of the modification and the number of the modification (I, II, III, etc.).

C. Time period to be covered by the modification (presumably this will be from the date of submission to the end of the GCSSP's time period).

D. The reason(s) for the modification.

E. The specific changes to be made in the GCSSP as a result of this reason(s). (Describe the specific section of the plan where this information is included).

F. *Signature.* The modification should contain the Governor's signature or the signature and title of his/her designee. The name of the signer should be typed below the signature.

III. Submittal

States should submit three copies of any necessary modifications, each with an original signature of the Governor or that of a designee to: Dolores Battle, Administrator, Office of Job Training Programs, 200 Constitution Avenue, NW., Room N4459, Washington, DC 20210.

IV. DOL Review.

The modification shall be reviewed for compliance with the Act and the State shall be modified within 30 days of the modification's submission of its acceptability or of any problems identified.

PLANNING GUIDANCE—SINGLE STATEWIDE SERVICE DELIVERY AREA JOB TRAINING PLANS

Planning Guidance

II. Statewide Service Delivery Area Job Training Plans

A. Background

The format for submitting statewide job training plans has not been revised, from past procedures, however, Section II–A of Enclosure II has been revised to request that the State provide a description of the required elements found in Section 104(b), and Section II–B requests that the State provide a budget describing the use of resources provided to the State.

B. Plan Submission

Single statewide SDAs job training plans should be submitted using the OMB approved format contained in Enclosure II. Modifications to the plan shall be submitted using the same format.

Governors with Statewide SDAs should submit three dated copies of the job training plan, each with an original signature of the Governor, or a designee, no later than April 29, 1988 to: Dolores Battle, Administrator, Office of Job Training Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4459, Washington, DC 20210.

C. Plan Review

The Department will check the plan or modification for overall compliance with the provisions of the Act and JTPA regulations and will notify the State of the result of its review.

D. Petitions for Disapproval

States are reminded of previous guidance provided concerning petitions for modifying or disapproving a statewide job training plan. This guidance provided that the procedures found in Section 105(b)(3) of the Act, which sets forth the conditions under which interested parties can petition the Governor for disapproval of a local job training plan, apply in the case of a statewide SDA. The Department recommends that the interested party first petition the Governor for a revision of the plan. If the Governor's informal resolution of the matter is not satisfactory to the interested party, then that party could submit a petition to the Secretary of Labor at the U.S. Department of Labor, Washington, DC 20210, Attention: ASET.

E. Appeals

In the event the Secretary disapproves a statewide plan, the Governor may appeal the Secretary's decision to an Administrative Law Judge (ALJ) pursuant to section 629.57 of the JTPA regulations. If the Governor is dissatisfied with the ALJ's decision, then under the authority provided in sections 166(b) and 168 of the Act, the Governor may file exceptions to the decision with the Secretary of Labor and/or a petition for review in the United States Court of Appeals having jurisdiction over the State.

INSTRUCTIONS FOR THE STATEWIDE JOB TRAINING PLAN

[Enclosure II; OMB Approval No. 1205–0204; Expiration Date: June 30, 1990]

Statewide Service Delivery Area (SDA) Job Training Plan

Statewide SDA

The Job Training Plan shall contain:

I. Identifying Information

(A) Identification and address of the grant recipient.

(B) Identification and address of the entity or entities which will administer the program (see Section 104(b)(1) of the JTPA), if different from the grant recipient.

(C) Date of submission.

(D) Area Covered by SDA (i.e., Entire State of _____).

(E) Time period covered by plan.

II. Program Information

(A) Specific descriptions of each of the required elements found in section 104(b) of the Act, including paragraphs 104(b)(2) through 104(b)(10).

(B) A statement assuring that the State will publish its plan and make it available for review and comment as specified in section 105(a) of the Act.

(C) A statement assuring that the State will comply with the cost limitations contained in section 108 of the Act.

III. Signature

An original signature should be affixed to each of the three copies of the statewide plan submitted. The name of the signer (and the signer's title if a designee) should be typed below the signature. The signature should be that of the Governor or a designee who is identified by the Governor.

PROCEDURES FOR APPEALS TO THE SECRETARY

[OMB Control Number 1205–0208 Expiration Date:]

SDA Job Training Plan Secretary's Appeal Process

Action	Time frames
• SDA submits job training plan	In accordance with the schedule established by the Governor.
• Governor notifies SDA in writing of preliminary disapproval of SDA job training plan.	In accordance with State schedule.
• SDA revises and resubmits the plan	Within 20 days of written notification of preliminary disapproval.
• Governor notifies SDA in writing of final disapproval of SDA job training plan and provides information on appeals.	Within 15 days after resubmittal.
• PIC and appropriate chief elected official(s) for SDA submit appeal to the Secretary (address: U.S. Department of Labor, Washington, DC 20210, Attention: ASET). Simultaneously, PIC and appropriate chief elected official(s) for SDA provide a copy of the appeal to the Governor. At a minimum, the appeal must include:.	Appeal must be dated no later than 30 days after receipt of Governor's written notification of final disapproval.
—Specific demonstration that a provision of section 105(b)(1) of the Act has been violated, with evidence to support that claim	
—A copy of instructions and scheules provided by the Governor on job training plans	
—A copy of the Governor's preliminary disapproval	
—A copy of the documents submitted by the SDA to the Governor in response to the preliminary disapproval	
—A copy of the Governor's notification of the final disapproval and evidence of the date of receipt of such disapproval	
• Secretary receives and dates appeal. Sends notice of receipt of appeal to the appropriate Governor.	45-day consideration begins with date stamp of receipt in DOL.
• Appeal is reviewed and analyzed, including Governor's comments. Recommendation provided to the Secretary.	45-day period.
• Secretary makes decision and notifies appealing party and Governor by letter	Letter dated within 45 days of receipt of appeal.

If the operational year begins while the appeal is being reviewed by the Secretary, the Governor's decision shall stand. The Governor may take whatever action is necessary to ensure continuity of services to participants during this interim period.

[Classification JTPA; Correspondence Symbol TDCP; Date: April 12, 1985]

Training and Employment Information Notice No. 38–84

To: All State JTPA Liaisons
From: Frank C. Casillas, Assistant Secretary of Labor
Subject: Job Training Partnership Act (JTPA) Appeals

1. *Purpose.* To summarize for State JTPA Liaisons the various types of appeals that may be directed to the Secretary of Labor under JTPA and to provide applicable references regarding appeal procedures.

2. *References.* Training and Employment Information Notice (TEIN) No. 23–84; TEIN No. 26–84.

3. *Background.* The JTPA specifies five types of appeals that may be addressed to the Secretary. They are:

(a) Service delivery area (SDA) designation appeals;

(b) Local job training plan appeals;

(c) Statewide SDA job training plan appeals;

(d) SDA reorganization plan appeals; and

(e) Plan revocation appeals.

4. *SDA Appeals.* Pursuant to sections 101 (b) and (c) of the Act, Governors may designate or redesignate SDAs subject to certain time limitations. An entity eligible under section 101(a)(4)(A) that is denied SDA designation may appeal the Governor's decision to the Secretary pursuant to section 101(a)(4)(C) of the Act. The procedures for filing such an appeal are outlined under 20 CFR 628.1(c) of the JTPA regulations, and are elaborated upon in a May 17, 1983 **Federal Register** notice. Interested parties should also consult TEIN No. 23–84, entitled "Appeals to the Secretary on Service Delivery Area (SDA) Designations."

5. *Local Job Training Plan Appeals.* Pursuant to section 105(b)(1) of the Act, a Governor shall approve a local job training plan or modification thereof unless one of five conditions set forward in that Section has not been met. An SDA whose plan or modification has been disapproved may appeal the Governor's decision to the Secretary pursuant to section 105(b)(2) of the Act. Procedures for filing this type of appeal are outlined under 20 CFR 628.5(b) of the JTPA regulations, and are elaborated upon in a September 12, 1983 **Federal Register** notice. Interested parties should also consult TEIN No. 26–84, entitled "Appeals to the Secretary on Final Disapproval of Job Training Plans or Modifications."

6. *Statewide SDA Job Training Plan Appeals.* Pursuant to section 105(d) of the Act, the Secretary exercises the same authority with regard to the State as the Governor exercises with regard to SDAs for job training plans (or modifications) for single, statewide SDAs. In the event that a statewide SDA job taining plan or modification is disapproved by the Secretary, Governors may appeal the decision by requesting a hearing with an Administrative Law Judge (ALJ) as outlined in 20 CFR 629.57(c) of the JTPA regulations. Pursuant to sections 166(b) and 168(a) of the Act, a Governor may file exceptions to the ALJ's decision with the Secretary and/or a petition for review in the U.S. Court of Appeals having jurisdiction over the State. This information was previously provided in a letter to all State Liaisons dated February 2, 1984.

7. *SDA Reorganization Plan Appeals.* Pursuant to section 106(h)(1) of the Act, the Governor shall impose a reorganization plan on SDAs where failure to meet performance standards persists for a second year. Section 106(h)(3) stipulates that affected entities must have the opportunity for a hearing by a hearing officer before the Governor imposes any such reorganization plan. The Governor's decision may be appealed to the Secretary, who shall make a decision within 60 days of receipt of the appeal (Section 106(h)(4)).

The Department will issue more detailed procedures for this type of appeal during Program Year 1985. Presently, there is no immediate need for such procedures since section 181(j)(3) provides that no SDA shall suffer a penalty for not meeting performance standards during the initial program period (October 1, 1983 to June 30, 1984—the 9-month transition period). Consequently, the "second year" of failure to meet performance standards referred to in section 106(h)(1) may not occur until the conclusion of Program Year 1985, which ends on June 30, 1986. Procedures for this type of appeal will be issued in a timely manner to permit implementation of this provision of the Act.

8. *Plan Revocation Appeals.* Pursuant to section 164(b)(1) of the Act, a Governor may issue a notice of intent to revoke approval of all or part of a plan if it is determined that a substantial violation of the Act or regulations has occurred and no corrective action has been taken. Such notice may be appealed to the Secretary under the same terms and conditions as the disapproval of a job training plan. Therefore, the terms and conditions set forth in section 105(b)(2) of the Act and 20 CFR 628.5(b) of the regulations for appeals of plan disapprovals apply to appeals of notices of intent to revoke plan approvals.

9. *Administrative Adjudication.* In addition to the appeals listed above, a hearing before an administrative law judge (ALJ) may be requested in certain cases, under the administrative adjudication provisions of section 155 of the Act. Section 166(a) provides that such requests for an ALJ hearing may be filed by an applicant dissatisfied with the Secretary's determination not to award financial assistance in whole or in part, or any recipient upon whom a corrective action or a sanction has been imposed by the Secretary. Procedures for filing such a request for a hearing may be found at 20 CFR 629.57(c).

Pursuant to section 166(b), a party dissatisfied with the ALJ's decision may, within 20 days of receipt of the decision, file exceptions and petition for the Secretary's review of the case. The Secretary has 30 days in which to accept the case for review; if the Secretary does not take such action, the decision of the ALJ becomes the final decision of the Secretary.

10. *Judicial Review.* The judicial review provisions of section 168 apply to any final actions of the Secretary.

11. *Action Required.* All State JTPA Liaisons are requested to provide this information to SDAs and other interested subrecipients.

12. *Inquiries.* Questions concerning this notice should be directed to Robert N. Colombo, Director, Office of Employment and Training Programs, at (202) 535–0577.

[Classification JTPA; Correspondence Symbol TDC; Date: June 13, 1985]

Training and Employment Information Notice No. 44–84

To: All State JTPA Liaisons and State Wagner-Peyser Administering Agencies

From: Frank C. Casillas, Assistant Secretary of Labor

Subject: Appeals of a Governor's Notice of Intent to Revoke Approval of All or Part of a Local Job Training Plan

1. *Purpose.* To transmit procedures for appeals to the Secretary of a Governor's notice of intent to revoke approval of all or part of a local job training plan, pursuant to section 164(b)(1) of the Job Training Partnership Act (JTPA).

2. *Reference.* Training and Employment Information Notice (TEIN) No. 26–84.

3. *Background.* Pursuant to section 164(b)(1) of the Job Training Partnership Act (JTPA), a Governor may issue a notice of intent to revoke approval of all or part of a local job training plan if it is determined that a substantial violation of the Act or regulations has occurred and no corrective action has been taken. Such notice may be appealed to the Secretary under the same terms and conditions as the disapproval of a local job training plan or modification. Pursuant to sections 164(b) (1) and (2) of the Act, the notice of intent shall not become final until the time for appeal has expired or the Secretary has issued a decision, and the Governor shall withdraw the notice if appropriate corrective action has been taken.

4. *Procedures.* The terms and conditions set forth in section 105(b)(2) of the Act and 20 CFR 628.5(b) of the regulations (approved under Office of Management and Budget Control Number 1205–0208, expiring August 31, 1986) for appeals of plan (or modification) disapprovals apply to

appeals of notices of intent to revoke plan approvals.

Pursuant to section 164(b) of the Act, the following procedures have been adapted from plan (or modification) disapproval appeal procedures, which were transmitted to States by TEIN No. 26–84.

An appeal to the Secretary shall be limited to a review of the Governor's action to determine compliance with the law. Therefore, it is incumbent on the appellant to demonstrate that the Governor's decision does not comply with specific provisions of the Act or regulations. It is not the Department's intent to review the substance of the approach or actions of the Governor or service delivery area (SDA). The Secretary's decision will be based strictly on whether or not the Governor's notice of intent is based on an SDA's substantial violation of a specific provision of the Act or regulations.

The Secretary will accept appeals dated no later than 30 days after receipt of the Governor's notice of intent to revoke approval of all or part of job training plan. The address for an appeal submittal is: Secretary, U.S. Department of Labor, Washington, SC 20210, Attention: ASET.

Simultaneous submittal of a copy of the appeal to the Governor is required. Appeals must be submitted jointly by the private industry council and the appropriate chief elected official(s) for the SDA.

In order for the Secretary to make an informed decision, the SDA should provide all relevant information in the appeal. This must include, at a minimum:

(a) The basis for the SDA's appeal to the Secretary of the Governor's notice of intent to revoke approval.

(b) The Governor's determination that there is or was a substantial violation of a specific provision of the Act or regulations.

(c) Any documents issued by the Governor directing that corrective action to be taken.

(d) Any documents submitted by the SDA to the Governor in response to the determination that there is or was a substantial violation.

(e) A copy of the Governor's notice of intent to revoke approval of all or part of the plan, and evidence of the date of receipt of such notice.

(f) A copy of any documents submitted by the SDA to the Governor in response to the notice, including any planned corrective action.

Governors may comment on appeals by submitting similar or additional information. The Secretary will make a final decision within 45 days of receipt of an appeal. Therefore, Governors will need to submit their comments to the Secretary quickly in order for them to be considered. A letter indicating the Secretary's receipt of an appeal and a cut-off date for comments will be sent to the Governor by the Employment and Training Administration on each appeal.

5. *Inquiries.* Questions concerning this notice should be directed to Robert N. Colombo, Director, Office of Employment and Training Programs, at (202) 535–0577.

Planning Schedule—Planning Activities for Program Year (PY) 1988 and PY 1989 (PY 1988 is From July 1, 1988 Through June 30, 1989 and PY 1988 is From July 1, 1989 Through June 30, 1990)

	PY 1988	PY 1989
B. Data for Operations and Planning		
● ETA issues requests to States to obtain area of substantial unempoyment (ASU) designations to be used in Title II allotments. (JTPA) Section 4(3)).		
● ETA issues the national ratio of economically disadvantaged youth to economically disadvantaged adults. (JTPA Section 203 (b)(2).	Mar. 14, 1988	
● ETA transmits revised poverty level income guidelines and updated Lower Living Standards Income Level (LLSIL) guidelines.	Mar.18, 1988	Mar. 17, 1989.
C. JTPA Appeals		
Note: There are five types of appeals under JTPA that may be filed wit the Secretary. The following is a list of those various appeals and where they fail chronologically in the upcoming planning schedule.		

Part I—Planning Dates by Subject Area

The planning schedule assumes continuation of existing programs. Should legislation outlined in the Department's initiative be passed by the Congress, further instructions will be provided.

	PY 1988	PY 1989
A. Allotments; Notices of Obligation (NOO); Substate Allocations		
Note: Allotments for Titles II–A and III cover PY 1988 and 1989. For Title II–B, the Summer Youth Employment and Training Program (SYETP), the allotments are for the Calendar Years 1988 and 1989 summer youth programs.		
● Using the most recent available data, ETA issues final State formula allotments for JTPA Titles II–A, II–B and III. (JTPA Section 201; 20 CFR 625.6).	Dec. 31, 1987	Dec. 30, 1988.
● ETA issues Wagner-Peyser preliminary planning estimates	Jan. 13, 1988	Jan. 13, 1989.
● Governors provide substate planning levels to SDAs	In accordance with State schedules	
● ETA issues final allotments for Wagner-Peyser, using most recent calendar year data.	Mar. 25, 1988	Mar. 10, 1989.
● ETA issues NOOs for Title II–B	Apr. 1, 1988	Apr. 1, 1989.
● ETA issues NOOs for Titles II–A and III	July 1, 1988	July 1, 1989.
● ETA issues first quarter NOOs for Wagner-Peyser activities	July 1, 1988	July 1, 1989.
● Governors provide funds to SDAs	Not later than 30 days after the date funds are made available to the States, or 7 days after the plan is approved, whichever is later. (JTPA Section 162(e)).	
● SDA Appeals—ETA provides to the States a copy of previously issued procedures for appeals to the Secretary on denials of requests for SDA designation. (JTPA Section 101 (a)(4)(c); 20 CFR 628.1(c)).	Mar. 14, 1988	

	PY 1988	PY 1989
● SDA Reorganization Plan Appeals—ETA provides to the States a copy of previously issued procedures for appeals of the Governor's decisions pursuant to any reorganization plan imposed for failure to meet performance standards. (JTPA Section 106(h)(3)).	Mar. 14, 1988	
● Local Job Training Plan or Modification Appeals—ETA provides to the States a copy of previously issued procedures for appeals of the Governor's final disapproval of local job training plans or modifications. (JTPA Section 105(b)(2); 20 CFR 628.5(b)).	Mar. 14, 1988	
● Plan Revocation Appeals—ETA provides to the States a copy of previously issued procedures for appeals of the Governor's notice of intent to revoke all or part of a local job training plan. Such appeals are subject to the same terms and conditions as the disapproval of local job training plan appeals. (JTPA Sections 164(b)(1), 105(b)(2); 20 CFR 628.5(b)).	Mar. 14, 1988	
● Statewide SDA Job Training Plan Appeals—ETA provides to the State a copy of previously issued procedures for filing appeals in the event that a statewide SDA job training or modification is disapproved by the Secretary (JTPA Sections 105(d), 166(b) and 168(a); 20 CFR 629.57(c)).	Mar. 14, 1988	
D. Employment Service Planning Activities		
Note: "Section" reference cites the Wagner-Peyser Act, as amended by JTPA.		
● State plan reviewed by Governor and submitted to Regional Office. (Section 8(b); 20 CFR 652.7).	May 27, 1988	May 26, 1989.
● State plans approved, Wagner-Peyser obligational authority provided to States. (Section 8(b); 20 CFR 652.7).	July 1, 1988	July 1, 1989.
● Program year begins, State Employment Service plans in effect	July 1, 1988	July 1, 1989.
E. Designation of Service Delivery Areas (SDAs) and Appeals to the Secretary on Denials of Requests for SDA Designation		
● ETA provides to the States a copy of previously issued procedures for submittal of appeals to the Governor's denial of SDA designation.	Mar. 14, 1988	
● State Job Training Coordination Council (SJTCC) proposes designation of SDAs for the State. (Section 101 (a)(1) and (2)).	In accordance with State schedule	
● Governor publishes proposed SDA designations. (JTPA Section 101(a)(1))	do	
● Units of general local government, business and other affected persons or organizations given an opportunity to comment on and request revisions of proposed SDA designations. (JTPA Section 101(a)(3)).	do	
● Governor makes final SDA designations within the State after reviewing any comments on the SJTCC's proposal. (JTPA Section 101(b)).	No more frequently than every 2 years and no later than 4 months before the beginning of a program year. (JTPA Section 101(c)(1)).	
● Entities described in Section 101(a)(4)(A) may appeal the Governor's denial of SDA designation to the Secretary. (20 CFR 628.1(c)).	No later than 30 days after receipt of written notification of the denial from the Governor (20 CFR 628.1(c)(2)).	
● Governor submits comments on the appeal to the Secretary. (20 CFR 628.1(c)(4)).	As quickly as possible	
● Secretary makes final decision on the appeal. (JTPA Section 101(a)(4)(C)	Within 30 days after the appeal is received.	
*F. Statewide SDA Plan**		
● ETA issues guidance for submission and modification of statewide SDA job training plans.	Mar. 14, 1988	
● ETA provides to the State a copy of previously issued procedures for appeals of the Secretary's disapproval of a statewide SDA job training plan or modification.	Mar. 14, 1988	
● Governor publish biennial statewide plan proposal or summary for review and comment not less than 120 days before begining of program year. (JTPA Section 105(a)(1)).	Mar. 14, 1988	
● Governor publishes final plans, summaries or modification of statewide SDA job training plans. (JTPA Section 105(a)(2)).	For final plans or summaries, no later than 80 days before the first of the two program years. For modifications, no later than 80 days before it becomes effective.	
● Governor submits final plan or modification to Secretary not less than 60 days before beginning of program year. (JTPA Section 105(d); 20 CFR 628.6(a)).	Apr. 29, 1988	
● Interested parties may submit petitions for disapproval of statewide SDA job training plans or modifications. (JTPA Section 105(b)(3)).	Within 15 days of the date of receipt by the Grant Office of the plan or modification.	
● The State's plan or modification shall be considered approved unless the Secretary notifies the Governor in writing of discrepancies between the submission and specific provisions of the Act. (20 CFR 628.6(b)).	Within 30 days of the date of submission, which is defined as date of receipt by the Administrator, Office of Job Training Programs.	
● The State may appeal the Secretary's disapproval of the plan or modification by requesting a hearing with an Administrative Law Judge as outlined in 20 CFR 629.57(c).	Within 21 days of receipt of the disapproval	
● SDAs publish any modification to approved local job training (JTPA Sections 104(c) and 105(a)(2)).		Not later than 80 plans days before the modification is to become effective.
● Governors approve or disapprove plans or modifications (JTPA Section 105(b)(2)).	Within 30 days of submission (may be extended another 15 days, if petition for disapproval is filed. (JTPA Section 105(b)(2)).	
● Program operations begin for the two program years	July 1, 1988	
H. Disapproval of Local Job Training Plans or Modifications and Appeals of Disapprovals		
● ETA provides to the States a copy of previously issued procedures for appeals of the Governor's final disapproval of local job training plans or modifications.	Mar. 14, 1988	

	PY 1988	PY 1989
● Interested parties may submit petitions to the Governor recommending disapproval of SDA job plans or modifications. (JTPA Section 105(b)(2) and (3)(A)).	Within 15 days of the date of plan submission	
● Governor notifies Private Industry Council and appropriate chief elected officials in writing of initial SDA job training plan or modification disapproval. (JTPA Section 105(b)(2); 20 CFR 628.5(a)(1)).	Within 30 days after plan or modification submission (may be extended to 45 days if there is a petition for disapproval).	
● SDAs submit correction of deficiencies in plans or modifications (20 CFR 628.5(a)(2)).	Within 20 days of initial approval	
● Governors approve or notify SDA of final disapproval of plans or modifications that were initially disapproved. (20 CFR 628.5(a)(2)).	Within 15 days of resubmittal (20 CFR 628.5(a)(2))	
● SDA submits appeal of final plan or modification disapproval to the Secretary, with copy to Governor simultaneously. 20 CFR 628.5(b)(1)).	No later than 30 days of final disapproval (20 CFR 628.5(b)(2).	
● Governor submits comments on appeal to the Secretary	As quickly as possible	
● Secretary makes final decision and provides written notice to appellant and the Governor. (JTPA Section 105(b)(3)).	Within 45 days of receipt of appeal. (20 CFR 628.5(b)(3).	
*I. Governor's Coordination and Special Services Plan (GCSSP)**		
● ETA issues instructions on the PY 1988/1989 GCSSP and modifications to the GCSSP. (20 CFR 627.2(a)).	Mar. 14, 1988	
● Governors submit GCSSP or required annual update (modification) describing adjustments made to performance standards to ETA for review. (20 CFR 627.2(a)).	May 16, 1988	
● The GCSSP or annual update shall be considered approved unless the Governor is notified in writing of discrepancies between the submission and specific provisions of the Act so that the Governor may modify the plan (or modification) to bring it into compliance with the Act. (20 CFR 627.2(b).	Within 30 days of submission, which is defined as the date of receipt by the Administrator of Office of Employment and Training Programs.	
J. Performance Standards and Appeals of Governor's Decisions on Reorganization Plan Due to Failure to Meet Performance Standards		
● ETA publishes worksheets for optional DOL adjustment model	Feb. 18, 1988	
● ETA issues procedures for appeals of Governor's decisions pursuant to any reorganization plan imposed due to failure to meet performance standards. (JTPA Section 106(h)(4); 20 CFR 629.46(d)).	Mar. 14, 1988	
● ETA publishes performance standards package for JTPA programs. (JTPA Section 106(d)(1)).	Mar. 7, 1988	
● ETA issues technical assistance guide (TAG) on JTPA performance standards	June 1, 1988	
● ETA issues TAG on PY 1987 Employment Service performance standards		
● Governors submit the GCSSP or required annual update (modification) that describes the adjustments made for JTPA programs (see Section I), (JTPA Section 121(b)(3)).	May 16, 1987	
● Governor reviews performance and provides incentives to SDAs exceeding performance standards or technical assistance to SDAs that do not meet performance standards. (JTPA Section 121(b)(3)).	In accordance with the State schedule	
● Governor imposes reorganization plans on SDAs that failed to meet performance standards for a second program year. (JTPA Sections 106(h)(a) and 181(j)(3).	In accordance with State schedule	
● Governor offers opportunity for a hearing before a hearing officer to SDAs upon which a reorganization plan is imposed. (JTPA Section 106(h)(3).	do	
● SDAs appealing the Governor's decision submit their appeals to the Secretary	Within 30 days of receipt of written notification from the Governor. (JTPA Section 106(h)(4); 20 CFR 629.36(d)(4).	
● Secretary issues final decision on appeals submitted by SDAs of Governor's decisions regarding reorganization plans.	Within 60 days of receipt written notification from the Governor. (JTPA Section 106(h)(4); 20 CFR 629.46(d)(6)).	
K. Title III National Reserve Awards		
● ETA issues application procedures and selection criteria for reviewing proposals. (20 CFR 631.23).		
● Governors submit grant applications to ETA	On a continuing basis through the program year	
● Secretary approves or disapproves applications	Within 60 days of receipt of proposals	

*States with a single statewide SDA may submit both the job training plan and GCSSP, or modifications, simultaneously or may combine the two as one submission.

[FR Doc. 88-9297 Filed 4-27-88; 8:45 am]
BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 88-42]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Agency Report Forms Under OMB Review.

SUMMARY: Under the provisions of thePaperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal letters and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

DATE: Comments must be received in writing by May 31, 1988. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESS: John F. Duggan, NASA Agency Clearance Officer, Code NPN, NASA Headquarters, Washington, DC 20546; Bruce McConnell, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Shirley C. Peigare, NASA Reports Officer, (202) 453-1090.

Reports

Title: NASA Procurement Regulation.
OMB Number: 2700-0041.
Type of Request: Extension.
Frequency of Report: As required.
Type of Respondent: State or local governments, businesses or other for-profit, non-profit institutions, small businesses or organizations.
Annual Responses: 41,900.
Annual Burden Hours: 1,017,000.
Abstract-Need/Uses: The contract forms and recordkeeping requirements used in collecting information from contractors are used for providing management information to NASA, to allow contract monitoring, and to meet other Executive and Legislative Branch statutory requirements as implemented by the NASA FAR Supplement. Applies to contracts initiated prior to April 1, 1984.

April 22, 1988.

John F. Duggan,

Director, General Management Division.

[FR Doc. 88-9367 Filed 4-27-88; 8:45 am]

BILLING CODE 7510-01-M

[Notice 88-43]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Ad Hoc Review Team on Aeronautics Technology Competitiveness.

DATE AND TIME: May 11, 1988, 8 a.m. to 4:30 p.m.

ADDRESS: National Aeronautics and Space Administration, Room 625, Federal Office Building 10B, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John S. Burks, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2807.

SUPPLEMENTARY INFORMATION: The NAC Aeronautics Advisory Committee (AAC) was established to provide overall guidance to the Office of Aeronautics and Space Technology (OAST) on aeronautics research and technology activities. Special ad hoc review teams are formed to address specific topics. The Ad Hoc Review Team on Aeronautics Technology Competitiveness, chaired by Mr. Louis F. Harrington, is comprised of ten members. The meeting will be open to the public up to the seating capacity of the room (approximately 25 persons including the team members and other participants). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Type of Meeting: Open.
Agenda: May 11, 1988
8 a.m.—Review of Action Groups Assignments.
1 p.m.—Continued Review of Action Groups Assignments.
2 p.m.—Presentation of Contractor Technology Assessment.
3 p.m.—Summary By Chairman and Task Assignments.
4:40 p.m.—Adjourn.

April 22, 1988.

Ann Bradley,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 88-9368 File 4-27-88; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Education Advisory Panel, AISBEG Section; 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 Arts in Education Advisory Panel (AISBEG Section) to the National Council on the Arts will be held on May 18, 1988 from 9:00 a.m.-5:30 p.m., and on May 19, 1988 from 9:00 a.m.-3:00 p.m., in room M-07 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on May 19, 1988, from 11:00 a.m.-3:00 p.m. for a general program overview and guidelines discussion.

The remaining sessions of this meeting on May 18, 1988 from 9:00 a.m.-5:30 p.m., and on May 19, 1988 from 9:00 a.m.-11:00 a.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.

April 21, 1988.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 88-9384 Filed 4-27-88; 8:45 am]

BILLING CODE 7537-01-M

Design Arts Advisory Panel, Advancement/Individuals Section; 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 Design Arts Advisory Panel (Design Advancement/Individuals Section) to the National Council on the Arts will be held on May 18-19, 1988 from 9:00 a.m.-5:30 p.m., and on May 20, 1988 from 9:00 a.m.-5:00 p.m. in room M-14 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on May 20, 1988, from 2:30 p.m.-5:00 p.m. for a general program overview and guidelines discussion.

The remaining sessions of this meeting on May 8-19, 1988 from 9:00 a.m.-5:30 p.m., and on May 20, 1988 from 9:00 a.m.-1:30 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 M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

April 21, 1988.

[FR Doc. 88-9385 Filed 4-27-88; 8:45 am]

BILLING CODE 7537-01-M

Music Advisory Panel, Composers Fellowship Section; 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 Music Advisory Panel (Composers Fellowships Section) to the National Council on the Arts will be held on May 18-20, 1988 from 9:00 a.m.-6:00 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on May 20, 1988, from 1:00 p.m.-3:00 p.m. for a general program overview and guidelines discussion.

The remaining sessions of this meeting on May 18-19, 1988 from 9:00 a.m.-6:00 p.m., and on May 20, 1988 from 9:00 a.m.-12:00 p.m. and from 3:00 p.m.-6:00 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.

April 21, 1988.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 88-9386 Filed 4-27-88; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Advisory Panel, Sculpture Fellowships Section; 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 Visual Arts Advisory Panel (Sculpture Fellowships Section) to the National Council on the Arts, will be held on May 16-19, 1988 from 9:00 a.m.-8:00 p.m. and on May 20, 1988 from 9:00 a.m.-5:00 p.m. in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is 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 discussion of 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 subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

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.

April 21, 1988.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 88-9387 Filed 4-27-88; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Genetic Biology; Meeting

The National Science Foundation announces the following meeting.

Name: Advisory Panel for Genetic Biology.

Date and Time: Wednesday, Thursday, and Friday, May 18, 19, and 20, 1988, 8:30 to 5:00 p.m.

Place: The National Science Foundation, Room 540.

Type Meeting: Closed.

Contact Person: DeLill Nasser, Program Director, Eukaryotic Genetics, Room 321L, Telephone: (202) 357-0112.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of proposals U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

April 21, 1988.

[FR Doc. 88-9381 Filed 4-27-88; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Instrumentation and Instrument Development Program; Meeting

The National Science Foundation announces the following meeting.

Name: Advisory Panel for Instrumentation and Instrument Development Program.

Date and Time: Thursday, May 19, 1988 from 8:30 a.m. to 5:00 p.m.; Friday, May 20, 1988 from 8:30 a.m. to 5:00 p.m.

Place: Pacific Science Center, 200 2nd Avenue, North Seattle, WA 98109 Telephone: 206-443-2001.

Type of Meeting: Closed.

Contact Person: Dr. Sidney Pierce, Program Director, Instrumentation and Instrument Development, Room 325E, Washington, DC Telephone: 202-357-7652

Summary Minutes: May be obtained from the Contact Person at the above address.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research instrumentation.

Agenda: Closed—To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries;

and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

April 21, 1988.

[FR Doc. 88-9382 Filed 4-27-88; 8:45 am]

BILLING CODE 7555-01-M

Division Advisory Panel for Networking and Communications Research and Infrastructure; Meeting

The National Science Foundation announces the following meeting:

Name: Division Advisory Panel for Networking and Communications Research and Infrastructure.

Dates and Times: May 23rd—10:00 a.m.–5:00 p.m.; May 24th—9:00 a.m.–3:00 p.m.

Place: May 23rd, Room 540; May 24th, Room 523; National Science Foundation, 1800 G Street NW.

Type of Meeting:

Open

May 23rd—10:00 a.m.–5:00 p.m.
May 24th—12:00 p.m.–3:00 p.m.

Closed

May 24th—9:00 a.m.–12:00 p.m.

Contact Person: Dr. Stephen S. Wolff, National Science Foundation Phone: (202) 357-9717.

Purpose of Meeting: To provide advice and recommendations concerning NSF support of networking and communications research and infrastructure.

Agenda: The sessions will focus on technical, management, research, planning and policy issues. These will include a review of recent actions and budget priorities.

Closed—To review and evaluate research proposals as part of the selection process for awards.

Open—To discuss trends and opportunities in research, and to help provide advice and recommendations concerning support for research in Networking and Communications Research and Infrastructure.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 88-9383 Filed 4-27-88; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-604]

Receipt of Application for Construction Permit, Availability of Applicant's Environmental Report, Consideration of Issuance of Construction Permit and Notice of Opportunity for Hearing; All Chemical Isotope Enrichment, Inc., Alchemie Facility-2 Oliver Springs

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has received by letter, dated November 17, 1987, an application, Environmental Report, and Safety Analysis Report from All Chemical Isotope Enrichment, Inc., (AlChemIE) for a construction permit to use centrifugal machines to enrich non-radioactive isotopes at AlChemIE Facility-2 located at Oliver Springs, Tennessee. The non-radioactive isotopes would be used in medical, industrial, and environmental and energy conservation purposes.

The centrifuge machines AlChemIE intends to use for enriching stable isotopes will be obtained under an agreement with the United States Department of Energy. The machines were originally designed and constructed, for the Department, to enriching uranium. Although AlChemIE intends only to enrich stable isotopes and will not enrich uranium, the Atomic Energy Act of 1954, as amended, and the Commission's regulations, 10 CFR Part 50, provide that equipment capable of enriching uranium is a production facility requiring a license from the Commission. Such a license would govern possession of the centrifuge machines, but not the enriched stable isotopes produced.

The applicant has filed, pursuant to the National Environmental Policy Act of 1969 (NEPA) and the regulations of the Commission in 10 CFR Part 51, an environmental report. The report, which discusses environmental considerations related to the proposed operation of the facility, is being made available at the Commission's Public Document Room at 1717 H Street, NW., Washington, DC. The NRC will complete an environmental evaluation, in accordance with 10 CFR Part 51, to determine if the preparation of an environmental impact statement is warranted or if an environmental assessment and Finding of No Significant Impact are appropriate. This action will be the subject of a subsequent notice in the **Federal Register.**

Prior to a decision on the requested construction permit, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations.

Construction Permit

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in title 10, Code of Federal Regulations, Part 50, "Domestic Licensing of Production and Utilization Facilities," Part 51, "Licensing and Reguatory Policy and Procedures for Environmental Protection," and Part 2, "Rules of Practice for Domestic Licensing Proceedings," notice is hereby given that a hearing will be held before an Atomic Safety and Licensing Board, to consider the application filed under the Act by AlChemIE (the applicant), for a construction permit for AlChemIE Facility-2 Oliver Springs (the facility), which will be located in Oliver Springs, Tennessee.

The hearing will be conducted by an Atomic Safety and Licensing Board (Board), which has been designated by the Chairman of the Atomic Safety and Licensing Board Panel. Notice as to the membership of the Board will be published in the **Federal Register** at a later date.

Pursuant to 10 CFR 2.785, an Atomic Safety and Licensing Appeal Board will exercise the authority and the review function which would otherwise be exercised and performed by the Commission. Notice as to the membership of the Appeal Board will be published in the **Federal Register** at a later date.

After the Commission's staff has performed a safety evaluation of the application and an environmental review, the Commission will consider making affirmative findings on Items 1 and 2, a negative finding on Item 3, and an affirmative finding on Item 4, specified below, as a basis for the issuance of a construction permit to the applicant.

Issues Pursuant to the Atomic Energy Act of 1954, as Amended

1. Whether in accordance with the provisions of 10 CFR 50.34, the applicant has described the proposed design of the facility including, but not limited to, the principal architectural and engineering criteria for the design, and has identified the major features or components incorporated therein to assure adequate protection of the common defense and security.

2. Whether the applicant is technically and financially qualified to construct the

proposed facility in such a way as to assure adequate protection of the common defense and security.

3. Whether the issuance of a permit authorizing construction of the facility will be inimical to the common defense and security.

Issue Pursuant to National Environmental Policy Act (NEPA)

4. Whether, in accordance with the requirements of 10 CFR Part 51, the construction permit should be issued as proposed.

If this proceeding is not a contested proceeding, as defined by 10 CFR 2.4(n), the Board will determine the following, without conducting a *de novo* evaluation of the application: (1) Whether the application and the record of the proceeding contain sufficient information and whether the Commission staff's review of the application has been adequate to support the proposed findings to be made by the Director of the Division of Industrial and Medical Nuclear Safety on Items 1–3 above, and to support, insofar as the Commission's licensing requirements under the Act are concerned, the issuance of the construction permit proposed by the Director of the Division of Industrial and Medical Nuclear Safety; and (2) whether the NEPA review the Commission's staff conducted has been adequate.

If this proceeding becomes a contested proceeding with respect to issues relating to the construction permit, the Board will consider and initially decide, as issues in this proceeding, Items 1–4 above, as a basis for determining whether a construction permit should be issued to the applicant.

By May 31, 1988, the applicant must file an answer to this notice, pursuant to 10 CFR 2.705, and any person whose interest may be affected by this proceeding, and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene, and shall specify whether such aspect relates to the construction permit or to the operating license or to both. 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 before 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 before the special prehearing conference, if one is held, or, if not, fifteen (15) days before 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 issues set forth in this notice. 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.

The Board will set the time and place for any special prehearing conference, prehearing conferences and evidentiary hearing, and the respective notices will be published in the **Federal Register.**

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715. A person making a limited appearance may make an oral or written statement of position on the issues. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to such limits and conditions as may be imposed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission within 60 days of the date of publication of this Notice.

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 present evidence and cross-examine witnesses.

Non-timely 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 Atomic Safety and Licensing Board that the petition and/or request whould be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

A request for a hearing or a petition for leave to intervene shall be filed by May 31, 1988 with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to 11555 Rockville Pile (One White Flint North) Rockville, MD, or to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. At times when 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 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 Richard E. Cunningham, Director, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of the Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to Stephen A. Irving, Esq., Rt. 7 Dixon Road, Lenoir City, Tennessee, 37771, attorney for the applicant.

For further details, see the application for a construction permit dated November 17, 1987, and the applicant's

environmental report dated November 1, 1987, which, along with any amendments or supplements thereto, are or will be available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, between the hours of 7:45 a.m. and 4:15 p.m. on weekdays. As they become available, a copy of the safety evaluation report by the Commission's staff, the environmental assessment, the proposed construction permit, the transcripts of the prehearing conferences and of the hearing, and other relevant documents, will also be available at the above location. Copies of the proposed construction permit may be obtained, when available, by request to the Director, Division of Industrial and Medical Nuclear Safety, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of the Commission's staff safety evaluation report and environmental assessment, when available, may be purchased at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Rockville, Maryland, this 22nd day of April 1988.

For the Nuclear Regulatory Commission.

Leland C. Rouse,

Chief, Fuel Cycle Safety Branch, Divison of Industrial and Medical Nuclear Safety, NMSS.

[FR Doc. 88-9373 Filed 4-27-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-603]

Receipt of Application for Construction Permit, Receipt of Application for Facility Operating License, Availability of Applicant's Environmental Report, Consideration of Issuance of Construction Permit and Facility Operating License and Notice of Opportunity for Hearing; All Chemical Isotope Enrichment, Inc., Centrifuge Plant Demonstration Facility

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has received by letter, dated November 17, 1987, an application, Environmental Report, and Safety Analysis Report from All Chemical Isotope Enrichment, Inc., (AlChemIE) for a construction permit and facility operating license to use centrifugal machines to enrich non-radioactive isotopes at the existing Centrifugal Plant Demonstration Facility [(AlChemIE) Facility-1 CPDF], located at the Oak Ridge Federal reservation in Oak Ridge, Tennessee. The non-radioactive isotopes would be used in medical, industrial and environmental and energy conservation purposes.

The centrifuge machines AlChemIE intends to use for enriching stable isotopes will be obtained under an agreement with the United States Department of Energy. The machines were originally designed and constructed, for the Department, to enriching uranium. Although AlChemIE intends only to enrich stable isotopes and will not enrich uranium, the Atomic Energy Act of 1954, as amended, and the Commission's regulations, 10 CFR Part 50, provide that equipment capable of enriching uranium is a production facility requiring a license from the Commission. Such a license would govern possession of the centrifuge machines, but not the enriched stable isotopes produced.

The applicant has filed, pursuant to the National Environmental Policy Act of 1969 (NEPA) and the regulations of the Commission in 10 CFR Part 51, an environmental report. The report, which discusses environmental considerations related to the proposed operation of the facility, is being made available at the Commission's Public Document Room at 1717 H Street, NW., Washington, DC. The NRC will complete an environmental evaluation, in accordance with 10 CFR Part 51, to determine if the preparation of an environmental impact statement is warranted or if an environmental assessment and Finding of No Significant Impact are appropriate. This action will be the subject of a subsequent notice in the **Federal Register.**

Prior to a decision on the requested construction permit, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations.

Construction Permit

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Domestic Licensing of Production and Utilization Facilities," Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection," and Part 2, "Rules of Practice for Domestic Licensing Proceedings," notice is hereby given that a hearing will be held before an Atomic Safety and Licensing Board, to consider the application filed under the Act by AlChemIE (the applicant), for a construction permit for AlChemIE Facility-1 CPDF (the facility), which will operate at the Oak Ridge Federal reservation in Oak Ridge, Tennessee.

The hearing will be conducted by an Atomic Safety and Licensing Board (Board), which will be designated by the Chairman of the Atomic Safety and Licensing Board Panel. Notice as to the membership of the Board will be published in the **Federal Register** at a later date.

Pursuant to 10 CFR 2.785, an Atomic Safety and Licensing Appeal Board will exercise the authority and the review function which would otherwise be exercised and performed by the Commission. Notice as to the membership of the Appeal Board will be published in the **Federal Register** at a later date.

After the Commission's staff has performed a safety evaluation of the application and an environmental review, the Commission will consider making affirmative findings on Items 1 and 2, a negative finding on Item 3, and an affirmative finding on Item 4, specified below, as a basis for the issuance of a construction permit to the applicant.

Construction Permit Issues Pursuant to the Atomic Energy Act of 1954, as Amended

1. Whether, in accordance with the provisions of 10 CFR 50.34, the applicant has described the proposed design of the facility including, but not limited to, the principal architectural and engineering criteria for the design, and has identified the major features or components incorporated therein to assure adequate protection of the common defense and security.

2. Whether the applicant is technically and financially qualified to modify the existing facility in such a way as to assure adequate protection of the common defense and security.

3. Whether the issuance of a construction permit authorizing the modification of the facility will be inimical to the common defense and security.

Issue Pursuant to (NEPA)

4. Whether, in accordance with the requirements of 10 CFR Part 51, the construction permit and operating license should be issued as proposed.

If this proceeding is not a contested proceeding, as defined by 10 CFR 2.4(n), the Board will determine the following, without conducting a *de novo* evaluation of the application: (1) Whether the application and the record of the proceeding contain sufficient information and whether the Commission staff's review of the application has been adequate to support the proposed findings to be

made by the Director of the Division of Industrial and Medical Nuclear Safety on Items 1–3 above, and to support, insofar as the Commission's licensing requirements under the Act are concerned, the issuance of the construction permit proposed by the Director of the Division of Industrial and Medical Nuclear Safety; and (2) whether the NEPA review the Commission's staff conducted has been adequate.

If this proceeding becomes a contested proceeding with respect to issues relating to the construction permit, the Board will consider and initially decide, as issues in this proceeding, Items 1–4 above, as a basis for determining whether a construction permit should be issued to the applicant.

Operating License

This application is complete enough to permit evaluation of the safety and environmental impact of the operation of the facility in the manner proposed. Therefore, upon completion of the modification of the facility in Oak Ridge, Tennessee, in compliance with the terms and conditions of the construction permit and the application, as amended, and in the absence of good cause to the contrary, the Commission will issue to the applicant, without additional prior notice, a class 103 facility license authorizing operation of the facility.

Operating License Issue

Whether, in accordance with 10 CFR 50.56, an operating license should be issued.

If this proceeding becomes a contested proceeding with respect to issues relating to the operating license, the Board will make findings of fact and conclusions of law on those matters specified in 10 CFR 2.760a.

By May 31, 1988, the applicant must file an answer to this notice, pursuant to 10 CFR 2.705, and any person whose interest may be affected by this proceeding, and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial or other interest in the proceeding; and (3) the possible effect of any 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, and shall specify whether such aspect relates to the construction permit or to the operating license or to both. 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 before 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 before the special prehearing conference, if one is held, or, if not, fifteen (15) days before 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 issues set forth in this notice. 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.

The Board will set the time and place for any special prehearing conference, prehearing conferences and evidentiary hearing, and the respective notices will be published in the **Federal Register.**

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715. A person making a limited appearance may make an oral or written statement of position on the issues. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to such limits and conditions as may be imposed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission within 60 days of the data of publication of this notice.

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 present evidence and cross-examine witnesses.

Non-timely 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 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).

A request for a hearing or a petition for leave to intervene shall be filed by May 31, 1988 with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to 11555 Rockville Pike (One White Flint North), Rockville, MD, or to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. At times when 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 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 Richard E. Cunningham, Director, Division of industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of the **Federal Register** notice. A copy of the petition should also be sent to the office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to Stephen A. Irving, Esq., Rt. 7 Dixon Road, Lenoir City, Tennessee, 37771, attorney for the applicant.

For further details, see the application for a construction permit dated November 17, 1987, and the applicant's environmental report dated November 1, 1987, which, along with any amendments or supplements thereto, are or will be available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, between the hours of 7:45 a.m. and 4:15 p.m. on weekdays. As they become available, a copy of the safety evaluation report by the Commission's staff, the environmental assessment, the proposed construction permit, the transcripts of the prehearing conferences and of the hearing, and other relevant documents, will also be available at the above location. Copies of the proposed construction permit may be obtained, when available, by request to the Director, Division of Industrial and medical Nuclear Safety, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of the Commission's staff safety evaluation report and environmental assessment, when available, may be purchased at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Rockville, Maryland, this 22nd day of April 1988.

For the Nuclear Regulatory Commission.

Leland C. Rouse,

Chief, Fuel Cycle Safety Branch, Division of Industrial and Medical Nuclear Safety.

[FR Doc. 88-9374 Filed 4-27-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-295 and 50-304]

Commonwealth Edison Co.; Issuance of Amendment To Facility and Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 112 to Facility Operating License No. DPR-39 and Amendment No. 101 to Facility Operating License No. DPR-48, issued to Commonwealth Edison Company (the licensee), which revised the Technical Specifications for operation of the Zion Nuclear Power Station Units 1 and 2 (the facility) located in Zion, Illinois. The amendments were effective as of the date of their issuance.

The amendments clarify and upgrade the Technical Specifications for measuring the leakage through pressure isolation valves.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on December 16, 1987 (52 FR 47807). No request for a hearing or petition for leave to intervene was filed following this notice.

On April 11, 1988 (53 FR 11922) the Commission published an Environmental Assessment and Finding of No Significant Impact relating to these amendments.

For further details with respect to the action see (1) the application for amendment dated November 13, 1987, modified March 4, 1988, (2) Amendment No. 112 to License No. DPR-39, (3) Amendment No. 101 to License No. DPR-48, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Dated at Rockville, Maryland, this 15th day of April 1988.

For The Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III-2, Division of Reactor Projects-III, IV, V, and Special Projects.

[FR Doc. 88-9371 Filed 4-27-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 106 to Facility Operating License No. DRP-72 to the Florida Power Corporation (the licensee), which revised the Technical Specifications for operation of the Crystal River 3 Nuclear Generating Plant, located in Citrus County, Florida. The amendment was effective as of the date of its issuance.

The amendment revised the Technical Specifications to provide specific actions to be taken when one of the batteries supplying DC control power to the 230 kv switchyard breakers is inoperable, and revised the time the plant may operate with one inoperable battery. The amendment also more explicitly defined the surveillances to be performed in Modes 5 and 6.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on March 22, 1988 (53 FR 9386).

Also in connection with this action, the Commission prepared an Environmental Assessment and Finding of No Significant Impact, which was published in the **Federal Register** on April 19, 1988 (53 FR 12836).

For further details with respect to the action, see (1) the application for amendment dated January 20, 1988, (2) Amendment No. 106 to License No. DPR-72, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Crystal River Public Library, 668 NW., First Avenue, Crystal River, Florida 32629.

Dated at Rockville, Maryland, this 22nd day of April, 1988.

For The Nuclear Regulatory Commission.

Harley Silver, Sr.,

Project Manager, Project Directorate II-2, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88-9372 Filed 4-27-88; 8:45 am]

BILLING CODE 7590-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the

Office of Management and Budget for review and approval.

Summary of Proposal:

(1) *Collection of Title:* Survivor Questionnaire
(2) *Form(s) Submitted:* RL-94-F
(3) *Type of Request:* Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection
(4) *Frequency of Use:* On occasion
(5) *Respondents:* Individuals or households
(6) *Annual Responses:* 26,500
(7) *Annual Reporting Hours:* 4,605
(8) *Collection Discription:* Under section 6 of the Railroad Retirement Act, benefits are payable to the survivors or the estates of deceased railroad employees. The collection obtains information about the survivors, if any, payment of burial expenses and administration of estate when unknown to the Board. The information will be used to determine whether and to whom benefits are payable.

Summary of Proposal(s):

(1) *Collection Title:* Statement Regarding Adoption
(2) *Form(s) Submitted:* G-118
(3) *Type of Request:* Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection
(4) *Frequency of Use:* On occasion
(5) *Respondents:* Individuals or households
(6) *Annual Responses:* 600
(7) *Annual Reporting Hours:* 150
(8) *Collection Discription:* Equitably adopted children of railroad workers may qualify for benefits under the RR Act. The collection obtains the information needed to establish equitable adoption when no legal adoption has occurred.

Additional Information or Comments: Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Allison Herron (202-395-7316), Office of Management and Budget, Room 3002, New Executive Office Building, Washington, DC 20503.

Pauline Lohens,

Director of Information Resources Management.

[FR Doc. 88-9332 Filed 4-27-88; 8:45 am]

BILLING CODE 7905-01-M

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s):

(1) *Collection Title:* Self-Employment Questionnaire
(2) *Form(s) Submitted:* AA-4
(3) *Type of Request:* Revision of a currently approved collection
(4) *Frequency of Use:* On occasion
(5) *Respondents:* Individuals or households
(6) *Annual Responses:* 600
(7) *Annual Reporting Hours:* 208
(8) *Collection Description:* Section 2 of the RRA provides for payment of annuities to qualified employees and their spouses. In order to receive an annuity, the applicant must stop all railroad work and all work for pay outside the railroad industry that is considered "last person service" (LPS). This collection obtains information about the applicant's self-employment work to be used in making an LPS determination.

Additional Information or Comments: Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Allison Herron (202-395-7316), Office of Management and Budget, Room 3002, New Executive Office Building, Washington, DC 20503.

Pauline Lohens,

Director of Information Resources Management.

[FR Doc. 88-9333 Filed 4-27-88; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-25605; File No. SR-BSE-87-3]

Self-Regulatory Organizations; Boston Stock Exchange, Incorporated; Order Granting Partial Approval to Proposed Rule Change

The Boston Stock Exchange Incorporated ("BSE" or "Exchange") submitted on February 6, 1987,[1] copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") 15 U.S.C. 78s(b)(1) and Rules 19b-4 thereunder that would reorganize the Exchange's Atlernate Specialist System.[2] The proposed rule will establish additional requirements for Alternate Specialists concerning their registration and operations on the floor of the Exchange.[3] In addition, the proposed rule would permit Regular Specialists, under certain conditions, to facilitate the execution of orders in stocks registered with other Regular Specialists.

Notice of the proposal together with its terms of substance was given by the issuance of a Commission release (Securities Exchange Act Release No. 24254, March 24, 1987) and by publication in the **Federal Register** (52 FR 10431, April 1, 1987). No comments were received regarding the proposal.

Under the proposal, the Exchange would permit Regular Specialists to register as Alternate Specialists in the stocks of other Regular Specialists with the approval of the Exchange's Market Performance Committe ("MPC").[4]

[1] The BSE submitted to the Commission Amendments Nos. 1 and 2 to the proposed rule change on August 25, 1987 and September 3, 1987, respectively.

[2] Alternate Specialists generally supplement the market making activites of Exchange primary specialists. When called-in to participate by a floor official, floor broker, or primary specialist, Alternate Specialist assist primary specialists in executing public orders during periods of active trading in a particular issue. In addition, Alternate Specialists provide depth and liquidity to Exchange markets by bringing additional capital to the floor of the Exchange. *See, generally*, Midwest Stock Exchange Rules, Article XIV and Securities Exchange Act Rel. No. 24820 (August 19, 1987). 52 FR 32235 (SR-Phlx-87-4).

[3] The proposed rule establishes a single category of Alternate Specialists as opposed to the existing dual-class Alternate Specialist System. BSE rules currently provide for two categories of Alternate Specialists, Class A and Class B, both of which are appointed by the Business Conduct Committee ("Committee"). Class A Alternative Specialists may only be appointed to a number of issues no greater than the number of issues assigned to their primary account. In addition, the Committe may appoint more than one Class A Alternative Specialist to a particular issue. By contrast, Class B Alternate Specialists are permitted to make markets in BSE listed security without being registered therein. However, Class B Alternative Specialists may only establish positions (long or short) on the Exchange floor to promote greater depth and liquidity. Finally, all Alternate Specialists are required to maintain a minimum equity of $25,000 as well as maintain the minimum equity requirements of their primary specialist account. *See*, BSE Rules of Board of Governors ("BSE Rules"), Chapter XI Section I.

[4] Registration as an Alternate Specialist will apply only to individual members of the Exchange and not to member organizations, although a member organization may designate a member as its agent. Such designation will allow the

Continued

Further, the proposed rule limits the number of stocks in which a Regular Specialist may register as an Alternate Specialist to no more than twice the number of stocks for which he is registered as a Regular Specialist. In addition to this limitation, the proposed rule would impose an additional pre-registration requirement on a Regular Specialist seeking to register as an Alternate Specialist. Under the proposal, each Regular Specialist would be required to establish his ability to meet, at all times, available equity of $25,000 over the minimum equity required for his primary specialist account. In determining whether to approve or disapprove an applicant for registration as an Alternate Specialist, the MPC will consider such factors as the applicant's capital, trading experience, compliance with BSE rules and policies, specialist performance evaluation scores and other relevant information.

After receiving MPC approval to register as an Alternate Specialist in a particular stock, the Alternate Specialist would be prohibited, for a six month period following MPC approval, from withdrawing registration as an Alternate Specialist in the stock.[5] Further, approval of the MPC would be required before an Alternate Specialist could expand the list of stocks, or substitute stocks, in which he is registered as an Alternate.[6]

The proposed rule imposes "negative" and "affirmative" trading obligations on Alternate Specialists as required by section 11(b) of the Act and the rules thereunder.[7] First, the proposed rule requires that Alternate Specialists generally engage in a course of dealings which is consistent with the maintenance of a fair and orderly market. Accordingly, all purchases and sales made by Alternate Specialists must contribute to the maintenance of price continuity with reasonable depth and must minimize the effects of temporary imbalances between supply and demand. In addition, the rule requires that all bids and offers made by an Alternate Specialist either improve the price of a stock or the depth of the existing market.

Second, the proposed rule obligates an Alternate Specialist to execute up to 500 shares in a registered stock when called-in by a floor broker holding an unexecuted public customer's order, provided that the broker has already obtained an execution of that portion of the order subject to the Exchange's Execution Guarantee Rule [8] from the Regular Specialist. Any portion of the order available for execution must be exposed to all Alternates in that stock by the entering broker. The proposed rule also establishes priority for Alternate Specialist participation in the incoming order. BSE members liquidating a position will have priority over other incoming orders. Where two or more members are liquidating a position, the size of the orders will determine precedence. When establishing positions, however, size will have precedence with bids or offers of the same size sharing equally.[9]

According to the BSE, these rules will allow Alternate Specialists to participate in the market in two ways. First, the Alternate Specialist can be called-in by the specialist to aid in the market and will be obligated to take at least 500 shares of a floor broker's order. Second, the Alternate Specialist will be able to initiate trades by making bids and offers that improve the price of the stock or better the depth of the market. In addition, Alternate Specialists will continue to be subject to existing margin requirements, including the requirement that transactions effected by Alternate Specialists be margined at twenty-five percent (25%).[10]

With regard to Regular Specialists, the rule would, under certain conditions, allow Regular Specialists to facilitate the execution of orders in the specialty stock of other Regular Specialists. Finally, the new rule authorizes the Exchange to suspend or cancel an Alternate Specialist's registration in one or more of his assigned securities for continued failure to satisfy his affirmative and negative trading obligations to maintain fair and orderly markets in his dealer accounts.

After careful consideration, the Commission has determined to approve that portion of the filing that establishes additional requirements for registration as an Alternate Specialist.[11] The Commission believes that it is appropriate for the Exchange to establish additional requirements concerning the registration and floor operations of Alternate Specialists. Further, the Commission believes that the proposed rule will provide additional liquidity and depth to BSE equity markets, while at the same time adhering to the provisions of section 11(b) of the Act and Rule 11b–1 thereunder. In particular, by establishing minimum capital requirements as a pre-condition to registration, the proposed rule ensures that Alternate Specialists are adequately capitalized to fulfill their trading obligations. Moreover, the imposition of affirmative and negative trading obligations on Alternate Specialists will ensure that their trades contribute to the maintenance of fair

---

Alternative Specialist to trade for the account of the member organization. If a member organization desires to transfer its alternate account registration from one member to another, such transfer must be approved by the MPC.

[5] If an Alternate Specialist withdraws his registration in a stock for which there is no other Alternate, the Alternate must either relinquish an Alternate stock for which there exists one or more other Alternates or register as an Alternate Specialist in another stock with no existing Alternate. *See*, Proposed Rule, Chapter XI, Section (1).

[6] In approving an Alternate Specialist's request to expand or substitute his list of stocks, the MPC will consider the factors noted above.

[7] Section 11(b) of the Act establishes the general rights and obligations of exchange specialists, while Rule 11b–1 thereunder regulates their conduct. Specifically, Rule 11b–1(a)(2) requires that the rules of an exchange regulating specialist registration and floor operations contain provisions that: (1) Establish minimum capital requirements; (2) require specialists, when trading for their dealer accounts, to engage in a course of dealings that maintains a fair and orderly market; (3) restrict specialists' principal trades to those reasonably necessary to maintain a fair and orderly market; (4) set forth the responsibilities of specialists when trading as a broker for their registered securities; and (5) establish procedures providing for the effective and systematic surveillance of specialist activities. *See*, 17 CFR 240.11b–1(a)(2).

[8] The Execution Guarantee Rule rquires BSE Regular Specialists to accept and guarantee execution of all agency orders from 100 up to and including 1,299 shares for all issues and from 100 up to and including 2,500 shares for issues designated as the most actively traded stocks ("MATS"). Thus, under the proposed rule, a floor broker must first seek execution of a public customer's order (if execution is guaranteed under the Execution Guarantee Rule) from the Regular Specialist prior to calling in an Alternate Specialist to participate in the trade. *See*, BSE Rules, Chapter II, Section 33.

[9] *See*, proposed Rule, Chapter XI, Section 2.

[10] Currently, under BSE rules, all Specialists, including Alternate Specialists, are required to maintain a 25% margin level ("maintenance margin") on each account at all times. The margin for each account is computed daily. In the event that the margin in a specialist's account falls below 15%, BSE officials may immediately issue a margin call which requires the specialist to bring the account up to 25% within one trading hour of such information being brought to the attention of the specialist. In addition, BSE rules permit the BSE's Department of Member Firms to require a specialist unit to bring its books within margin compliance in any period of time. *See*, BSE Rules, Chapter VIII, Supplementary Material. We note that the Commission has approved a proposed rule change submitted by the BSE revising its margin requirements. *See*, Securities Exchange Act Rel. No. 25044 (October 20, 1987) 52 FR 40009. Specifically, the proposed rule change would institute specified penalties for accounts with two or more margin calls within thirty or ninty day periods. For example, in the event an account has five margin calls within a thirty day period, the BSE would fine the specialist $250; a $500 fine would be imposed for any subsequent margin call within the thirty day period.

[11] The Commission is currently reviewing that portion of the filing that would permit Regular Specialists to facilitate orders in any non-specialty stocks in light of section 11(b) requirements and thus is not acting on this portion of the proposal at this time.

and orderly markets. In this regard, the Commission believes the provisions requiring that: (1) All purchases and sales by an Alternate Specialist must contribute toward the maintenance of price continuity, and (2) that all bids or offers by Alternate Specialists must improve the stock price or the depth of the market, will ensure that Alternate Specialists fulfill their affirmative and negative trading obligations under the Act as specialists. In addition, the provision requiring Alternate Specialists to execute at least 500 shares of an unexecuted public customer's order when called-in by a floor broker should ensure that customers' orders are executed in an efficient and orderly fashion.

The Commission therefore believes that the portions of the proposed rule change establishing additional procedures is consistent with section 6(b) of the Act. The provision governing capitalization should protect investors as well as the market in general. Further, the provisions establishing trading and execution obligations of Alternate Specialists should both facilitate transactions in securities as well as foster a free and open market. In view of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change, be and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 21, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-9413 Filed 4-27-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25607; File No. SR-NYSE-87-40]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Accelerated Approval To Proposed Rule Change

On January 29, 1988, the New York Stock Exchange, Inc. ("NYSE"), submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] Amendment No. 1 to a proposed rule change to extend the market index option escrow receipt pilot program until June 30, 1988.[3]

In August 1985, the Commission approved a one-year pilot program to permit the use of cash, cash equivalents, one or more qualified securities, or a combination of the foregoing, as collateral for escrow receipts issued to cover short call positions in broad-based stock index options.[4] The pilot was to end on August 19, 1986 but was initially extended until February 20, 1987 to provide sufficient time for the exchanges to review the data compiled during the original pilot period.[5] On February 6, 1987 the Chicago Board Options Exchange ("CBOE"), on behalf of all the options of self-regulatory organizations, submitted a report to the Commission and requested that the pilot be extended until June 30, 1987 in order to give the Commission sufficient time to review and evaluate the report. The pilot was subsequently extended until December 31, 1987 to allow additional time for Commission review of the CBOE report.[6]

The Commission has determined to extend the pilot until June 30, 1988 in order that the options exchanges and the Options Clearing Corporation may review the format of the receipt. The proposed rule change will extend the operation of the pilot program and thereby continue in operation a workable mechanism through which index call options can be written in a cash account.

The Commission finds that the proposed rule change to extend the operation of the index option escrow receipt program through June 30, 1988, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the exchanges, and, in particular, the requirements of section 6, and the rules and regulations thereunder. The pilot program extension is consistent with the Act because it will enable continuation of a program designed to reduce operational difficulties of banks and trust companies while the Commission evaluates the program's effectiveness. In addition, the Commission will have the opportunity to assess the program's operation during the October 1987 market break.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication in the **Federal Register** because the pilot was previously approved by the Commission, no adverse comments have been received regarding its operation, and the extension will allow for uninterrupted continuation of the program. Furthermore, the Commission recently approved identical proposals to extend the pilot submitted by the CBOE, the American Stock Exchange, Inc., the Philadelphia Stock Exchange, Inc., and the Pacific Stock Exchange, Inc.[7]

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of the exchange's filing also will be available for inspection and copying at its principal office. All submissions should refer to the file number in the caption above and should be submitted by May 19, 1988.

It is therefore ordered, pursuant to section 19(b)(2) of the Act [8] that the proposal to extend the operation of the pilot through June 30, 1988, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

---

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1988).

[3] Proposed rule change File No. SR-NYSE-87-40 was originally filed with the Commission on November 6, 1987. The rule change requested that the pilot program be extended through December 31, 1987 and proposed that the program be continued on a permanent basis. Amendment No. 1 to the proposed rule change, as noted above, would continue the pilot until June 30, 1988.

[4] *See* Securities Exchange Act Release No. 22323 (August 13, 1985), 50 FR 33439 for a description of the pilot.

[5] *See* Securities Exchange Act Release No. 23552 (August 25, 1986), 51 FR 31183.

[6] *See* Securities Exchange Act Release No. 24708 (July 15, 1987), 52 FR 27604.

[7] *See* Securities Exchange Act Release Nos. 25242 (January 5, 1988), 53 FR 648 and 25846 (March 18, 1988), 53 FR 9722. The Commission's instant approval order extends only to that part of the proposed rule change that requests continuation of the pilot until June 30, 1988. With respect to that part of the proposal which requests permanent approval of the index option escrow receipt program, this release serves solely as *notice* of the proposal.

[8] 15 U.S.C. 78s(b)(2) (1982).

[9] 17 CFR § 200.30-3(a)(12) (1988).

Dated: April 21, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-9414 Filed 4-27-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25610; File No. SR-OCC-87-17]

Self-Regulatory Organizations; Options Clearing Corp.; Order Approving Proposed Rule Change

On October 6, 1987, the Options Clearing Corporation ("OCC") filed a proposed rule change (SR-OCC-87-17) under section 19(b) of the Securities Exchange Act of 1934 ("Act"). The proposal permits for OCC margin and clearing fund purposes deposits of securities issued or guaranteed by the Canadian government ("Canadian government securities"). The Commission published notice of the proposal in the **Federal Register** on October 20, 1987.[1] No public comments were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description of the Proposal

Currently, OCC members can deposit cash or U.S. government securities to satisfy OCC clearing fund requirements. To satisfy OCC margin requirements, members can deposit cash, letters of credit, common stock, or U.S. government securities. This proposal amends OCC rules and by-laws to permit OCC clearing members to deposit Canadian government securities for margin and clearing fund purposes.

OCC's proposal includes procedures for the acceptance of Canadian government securities. OCC will accept pledges of Canadian government securities in the form of a depository receipt or confirmation from its clearing banks [2] that Canadian government securities have been pledged through an EDP Pledge System.[3] Existing OCC depository receipts will be modified to reflect differences between U.S. and Canadian law with respect to such pledges. In the case of securities deposited at the Canadian Depository for Securities Limited ("CDS"),[4] OCC would accept the CDS standard form of depository receipt, modified as necessary to meet OCC needs.

OCC's proposal includes procedures for the valuation of deposited Canadian government securities. The securities must mature within ten years, with those maturing within one year characterized as "short-term," and those with longer maturities considered "long-term." Short-term securities will be valued at the lesser of their par value or 100% of their current market value, while long-term securities will be valued at the lesser of their par value or 95% of their current market value. The current market value of a deposited security will be its quoted bid price as supplied daily to OCC by the Bank of Canada. The conversion rate for this valuation will be the U.S./Canadian dollar exchange rate provided by OCC's price vendor, Telerate Corporation. The time of valuation will depend on whether Canadian government securities are deposited for clearing fund or margin purposes. Canadian government securities deposited for clearing fund purposes will be valued monthly. Canadian government securities deposited to meet margin requirements will be valued daily.

OCC's proposal also adds procedures for the liquidation of deposited Canadian government securities. Upon suspension of a clearing member, OCC would convert to cash Canadian government securities in that member's clearing fund and margin accounts. In liquidating deposited Canadian government securities of a Canadian clearing member, OCC would direct its Canadian clearing bank to sell the deposited securities and transfer the proceeds to the suspended member's liquidating settlement account at OCC's lead bank in the United States. If the securities are deposited with CDS, OCC would ask CDS to transfer the securities to OCC's Canadian clearing bank for liquidation. If deposited Canadian government securities could not be converted promptly to cash, and, as a result, OCC was required to borrow funds from its lead bank, the deposited securities would be used as collateral for the loan.

II. OCC's Rationale for the Proposed Rule Change

OCC believes that the proposal is consistent with the purposes and requirements of section 17A of the Act. OCC states that the ability of its members to use Canadian government securities for margin and clearing fund purposes would facilitate direct participation in OCC. At the same time, OCC believes the proposal assures the safeguarding of securities and funds in the custody or control of OCC.

III. Discussion

The Commission believes the proposal is consistent with Section 17A of the Act and therefore is approving the proposal. The Commission believes the proposal is designed to facilitate U.S. and Canadian member [5] participation in OCC. Moreover, because the U.S. and Canadian government securities markets are similar, OCC's proposed procedures for the acceptance, valuation, and liquidation of Canadian government securities should assure the safeguarding of securities and funds in OCC's custody or control.

The Canadian government securities market is one of the largest government securities markets in the world with $160 billion in government securities outstanding as of December 31, 1986.[6]

---

[1] *See* Securities Exchange Act Release No. 25030 (October 15, 1987), 52 FR 38984.

[2] OCC currently has 18 U.S. clearing banks and one Canadian clearing bank, Bank of Montreal.

[3] The EDP Pledge System is operated by the Depository Trust Company ("DTC") and allows OCC members to electronically pledge to OCC securities on deposit at DTC. To use the system, OCC members must become participants in DTC's Participant Terminal System ("PTS") and have PTS terminals installed on their premises. Pledges are made by entering into the terminal essentially the same data required to complete OCC depository receipts. For a more detailed discussion of DTC's EDP Pledge System, *see* Securities Exchange Act Release No. 22887 (February 18, 1986), 51 FR 5823.

[4] CDS is a depository and clearing corporation organized under Canadian law. CDS is one-third owned by seven Canadian chartered banks, one-third by six Canadian trust companies, and one-third by broker-dealers that are members of hte Toronto Stock Exchange, Montreal Stock Exchange, or the Investment Dealers Association of Canada. Although CDS is not registered with the Commission as a clearing agency, it is a member of DTC and the National Securities Clearing Corporation ("NSCC"). Thus, CDS and its participants may use the full range of NSCC and DTC services, including the EDP Pledge System.

[5] Facilitating Canadian member participation in OCC has been a step-by-step process. On June 6, 1985, the Commission approved an OCC proposal allowing Canadian and other foreign firms to become OCC clearing members. *See* Securities Exchange Act Release No. 22123 (June 6, 1985), 50 FR 24853. On August 22, 1986, the Commission approved an OCC proposal permitting Canadian banks and trust companies to qualify as escrow receipt issuers. *See* Securities Exchange Act Release No. 23550 (August 22, 1986), 51 FR 30924. On July 21, 1987, the Commission approved an OCC proposal allowing Canadian firms to participate in OCC under financial reporting and responsibility standards of Canada. *See* Securities Exchange Act Release No. 24725 (July 21, 1987), 52 FR 28401. These proposals were designed, among other reasons, to encourage direct Canadian firm participation in OCC and expand OCC services to more Canadian participants.

[6] In contrast, the U.S. government securities market is the largest government securities market in the world with $2.5 trillion in government securities outstanding as of December 31, 1986. Generally, this market consists of three types of securities: treasury, mortgage-backed, and agency. U.S. Treasury securities comprise approximately 66% of government securities outstanding; mortgage-backed securities make-up 22% of the market, while the remainder of the market consists of agency securities. Treasury bills have maturities of 3, 6, and

Continued

This market consists of treasury bills, government bonds, and National Housing Act ("NHA") bonds. [7]Treasury bills and government bonds are guaranteed as to principal and interest by the Canadian treasury and are auctioned to the public by the Bank of Canada.[8] These securities are purchased primarily by banks and securities firms acting as government securities dealers.[9]NHA mortgage bonds are guaranteed as to principal and interest by the Canadian government under the terms of NHA and are issued by chartered banks and trust companies approved under NHA. They are sold in the form of fixed interest bonds with a term of up to five years.[10]

Like the U.S. government securities market, the Canadian government securities market is stable and liquid.[11]The volume of Canadian government securities issued per quarter has increased substantially in recent years, and new issues have been subscribed fully. This increased volume is primarily due to U.S. investor interest in Canadian government securities. U.S. residents hold about one-fifth of all Canadian government securities, and the dollar value of those holdings is twice that of government securities held by Canadian residents.[12]

The Commission's net capital rule [13] recognizes the stability of the Canadian government securities market. This rule treats Canadian government securities the same as those of the U.S. government for net capital haircut purposes. The net capital rule prescribes minimum liquidity standards for broker-dealers, ensuring that broker-dealers maintain sufficient liquid assets to satisfy promptly the claims of customers. A haircut is a deduction from a broker-dealer's net worth that acts as a safety margin for market fluctuations and delays encountered in liquidating a position in a particular security. In prescribing the same haircuts for U.S. and Canadian government securities, the Commission has indicated that the U.S. and Canadian government securities markets share similar characteristics in terms of stability and risk.

The Commission believes OCC's proposed procedures for the acceptance, valuation, and liquidation of Canadian government securities are designed to ensure the safeguarding of securities and funds in OCC's custody or control. As noted, one form in which OCC would accept pledges of Canadian government securities from OCC clearing banks is via depository receipts. The Commission previously approved OCC requirements to be met by Canadian banks for the issuance of depository and escrow receipts.[14] The Commission believes these requirements should ensure that OCC's Canadian clearing bank meets its obligations pursuant to the terms of the depository receipts. The Commission also believes the proposed form of depository receipt, which reflects differences between Canadian and U.S. law, is designed to avoid conflict of law impediments to clearing banks honoring their depository receipt obligations.

OCC also will accept Canadian government securities in the form of a confirmation from its clearing banks that Canadian government securities have been pledged through an EDP Pledge System. Since February 1986, OCC members have been able to use the EDP Pledge System to pledge securities they have on deposit at DTC to meet OCC margin and clearing fund requirements. During this time, OCC member use of the EDP Pledge System has increased significantly, and it has proved to be an efficient and safe alternative to the physical issuance of depository receipts. The Commission believes this proposal, in allowing pledges of Canadian government securities through the EDP Pledge System, is designed to capitalize on the efficiencies of that system.

OCC will value Canadian government securities in the same manner it values U.S. government securities, except, as noted below, Canadian government securities deposited as margin. The Commission believes such valuation is appropriate considering similarities between U.S. and Canadian government securities markets and the Commission's equal treatment of Canadian and U.S. government securities under its net capital rule. Canadian government securities deposited for margin purposes will be valued daily. The Commission believes such valuation is appropriate to account for daily fluctuations in the U.S./Canadian dollar exchange rate.

OCC would liquidate Canadian government securities much the same way it liquidates U.S. government securities. Because the secondary market for Canadian government securities is highly liquid, OCC should be able to convert those securities to cash promptly and without difficulty. The percentage of Canadian government securities held by U.S. investors indicates a willingness on their part to purchase those securities, thereby facilitating liquidation. If OCC was unable to liquidate Canadian government promptly, it could borrow cash from its lead bank and post the Canadian government securities as collateral for the loan.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the Act and, in particular, with section 17A. The Commission believes the proposal is designed to facilitate U.S. and Canadian member participation in OCC and assure the safeguarding of securities and funds in OCC's custody or control.

It is therefore ordered, pursuant to section 19(b) of the Act, that the proposed rule change (SR–OCC–87–17) be, and hereby is, approved.

---

12 months; Treasury notes range in maturity from 1 to 10 years; and Treasury bonds generally have a maturity of over 10 years. Treasury securities are guaranteed as to principal and interest by the U.S. Treasury and are auctioned to the public by the Federal Reserve System. Although investors submit bids directly at auctions, the majority of Treasury securities are initially purchased by banks and securities firms operating as government securities dealers.

[7] The Canadian government securities market also consists of non-marketable Canadian government securities, provincial securities, and municipal securities, but OCC's proposal does not include those securities.

[8] Canadian treasury bills have maturities of 3, 6, and 12 months and comprise approximately 40% of Canadian government securities outstanding. Government bonds have maturities ranging from 3 to 25 years and comprise approximately 50% of the market. *See* Kemp, *The Wardley Guide to World Money and Securities Markets*, 70 (Euromoney Publications, 1984).

[9] Canadian treasury bills and government bonds are in bearer form. They are not delivered physically but are transmitted by wire. *See* Kemp, *supra*, at 70.

[10] Like U.S. mortgage-backed securities, NHA mortgage bonds represent an interest in a pool of mortgages. NHA mortgage bonds comprise 10% of the Canadian government securities market. *See* Kemp, *supra*, at 74.

[11] Canadian government securities consistently receive the highest ratings issued by the Canadian Bond Rating Service and Standard & Poors Corporation. *See* Kemp, *supra*, at 74 and Standard & Poors International CreditWeek, April 1986.

[12] Because interest on Canadian government securities is paid free of tax imposed by the government of Canada, including withholding tax to non-residents, these securities are an attractive investment for U.S. residents. *See* Kemp, *supra*, at 74.

[13] *See* 17 CFR 240.15c3–1.

[14] *See* Securities Exchange Act Release No. 23550 (August 22, 1986), 51 FR 30924. To qualify as an escrow or depository receipt issuer, a Canadian financial institution must: (1) Be either a Canadian domestic bank governed by the Canadian Bank Act or a trust company governed by Canadian federal or provincial legislation; (2) have shareholders' equity equivalent to at least $20,000,000 U.S.; and (3) file with the Board of Governors of the Federal Reserve System either Form T–2 or its equivalent conforming to Section 8(a) of the Act in which the Canadian financial institution agrees to comply with U.S. law relating to the use of credit to finance securities transactions. In addition, each Canadian financial institution, upon application to OCC for approval as an escrow receipt issuer, must supply OCC with its latest available audited financial statements. After its approval, the institution must submit quarterly unconsolidated statements to OCC and an annual audited report.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

April 22, 1988.

[FR Doc. 88-9415 Filed 4-27-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25611; File No. SR-PSE-87-28)]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

On October 16, 1987, the Pacific Stock Exchanges, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commissioner"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act"), [1] and Rule 19b-4 thereunder,[2] a proposed rule change to implement a two year options trading crowd performance evaluation pilot program.

The proposed rule change was noticed in Securities Exchange Act Release No. 25127 (November 16, 1987), 52 FR 44662 (November 20, 1987). No comments were received on the proposed rule change.

The Exchange proposes to amend Section B of the Option Floor Procedure Advices to add a new Advice B-13 ("Evaluation of Options Trading Crowd Performance") to provide for a two year pilot program during which the Options Listings Committee ("Committee") periodically will conduct evaluations of options trading crowds to determine whether they have fulfilled performance standards relating to quality of markets, competition among market makers, observance of ethical standards, and administrative factors.[3] The Committee may consider any relevant information, including such factors and data as the results of a trading crowd evaluation questionnaire, trading data, reports filed with the Exchange (*i.e.*, Order Book Official Unusual Activity Reports), and the regulatory history of the members in the crowd.[4]

The Advice provides that a trading crowd evaluation will be conducted every three months. The Committee plans to distribute trading crowd evaluation questionnaires to every member firm on the floor that has at least one broker in a trading crowd and that receives order flow from outside the floor. Floor brokers approved by the Committee will complete the trading crowd evaluation questionnaires. The questionnaires that will be used have a series of questions with numerical ratings.[5] The total of the numerical ratings is the evaluation score for each trading crowd. Trading crowds rated in the bottom 10% of the aggregate results of overall evaluation scores will be presumptively deemed to have failed to meet minimum performance standards. The Committee may also presume a trading crowd's failure to meet minimum performance standards by considering, in conjunction with the trading crowd's evaluation score, such factors and data as reports filed with the Exchange and the regulatory history of the members of the crowd.[6]

The Committee may call an informal meeting with a trading crowd for a failure to meet minimum performance standards, for the purpose of discussing the presumptive failure and exploring possible remedies that will result in improved market-maker performance. To ensure that such informal meetings encourage free and open discussion, and to avoid an adversarial contest, the Advice specifies that such meetings will not be transcribed and that, ordinarily, counsel will not participate.

The Committee may also conduct a formal hearing with a trading crowd that has presumptively failed to meet minimum performance standards. At this formal hearing, rights of confrontation and rights to counsel will apply. When a trading crowd is found to have failed to meet minimum standards of performance, the trading crowd will be provided written notice and an opportunity to present information in rebuttal. A verbatim record of the proceedings will be kept. The trading crowd and the Committee will have the right to present one or more technical consultants at the hearing who can discuss trading techniques and procedures and the proper performance of a trading crowd's responsibilities. Based on the information adduced at the hearing, the Committee will have the authority to take action against a trading crowd or individual market makers in the crowd, such as a restriction on the allocation of new options classes or a reallocation of options classes.[7]

If any remedial measures are taken, the Committee will issue written findings supporting its determination, and affected members may seek review by the PSE Board of Governors ("Board"). The Board's review, however, will be limited to matters presented to the Committee or contained in the written notification.

The Committee believes that the rule change should further the PSE's ability to ensure liquid and continuous markets for options traded on its floor by permitting it to enforce more effectively the affirmative and negative obligations imposed on PSE market-makers.[8] In particular, responses to the trading crowd evaluation questionnarie will enable the PSE to determine whether market-makers are making continuous, two-sided markets in all option series for each option class located at a trading station and whether deep and liquid markets are provided as a result of competition among market-makers.

---

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1987).

[3] This proposal provides a procedure for evaluation of trading crowds as a whole. Trading crowds are located at various trading stations on the Exchange floor at which listed options classes are grouped. A trading station is a physically discrete portion of a trading post, where the display screens for the group of options classes are located and all transactions in such options classes are effected.

In the PSE's competitive market-maker system, market-makers are appointed to make markets in classes of options contracts, and generally become regular participants in particular trading crowds where certain groups of their appointed options classes are located. In the PSE's view, differentiation among individual members of a crowd is usually neither practical nor useful. Therefore, the Exchange believes it is appropriate to evaluate the performance of trading crowds as a whole and to take remedial measures if performance of a particular trading crowd does not meet a minimum standards.

On January 16, 1987, the Commission approved a proposed rule change submitted by the Chicago Board Options Exchange that implemented a similar two year trading crowd evaluation pilot program (Securities Exchange Act Release No. 24008, 52 FR 3072).

[4] The proposed rule change originally contained a factor of periodic floor broker meetings to rank individual crowds, but this factor subsequently was deleted by the Exchange as unnecessary in light of the trading crowd evaluation questionnaire. Letter from Craig Carberry, Director, Options Compliance, PSE, to Mary Revell, Division of Market Regulation, Securities and Exchange Commission, dated March 18, 1988.

[5] The PSE's questionnaire is substantially similar to the questionnaire used by the CBOE in its trading crowd evaluation program.

[6] A discussed below, the trading crowd will have the opportunity to rebut the presumption.

[7] Currently, PSE Rule VI, section 75 permits the Options Appointment Committee to suspend or terminate a market-maker's appointment to a particular options class. The Options Appointment Committee also selects the location where options classes are to be traded. Under the proposed rule change, these powers will be available to the Committee, as appropriate, to remedy deficient trading crowd performance. In this regard, the Commission notes that it previously has stated that it does not believe that programs to evaluate and improve market-maker performance would constitute disciplinary proceedings against a member or limitation on access to services offered by an exchange under section 19(d) of the Act. *See In re* James H. Niehoff & Co., SEC Order Denying Request to Stay Action of the Midwest Stock Exchange, File No. 3-6757 (November 20, 1986). *See also* Securities Exchange Act Release No. 15627 (May 15, 1979), 44 FR 29778 at 29781 nn.21 and 22.

[8] *See* PSE Rule VI, Sec. 79.

The Commission also believes that the Committee review and board appeal procedures discussed above should ensure that any action taken against a trading crowd will provide adequate due process protection for individual market-makers. The initial meeting provides the Exchange and the trading crowd the benefit of a flexible, informal forum in which to focus the issues and discuss possible solutions. If a further, formal hearing is required, the pilot provides for a hearing with a right to counsel, a record of the proceedings, and a right to review by application to the Board.

Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 [9] and the rules and regulations thereunder. In particular, the proposal is consistent with section 6(b)(5) of the Act in that by improving the PSE's markets, the rule is designed to facilitate transactions in securities and perfect the mechanism of a free and open market. Further, the proposal should ensure protection of investors and serve the public interest by setting minimum standards of market-maker performance. The Commission believes that implementing a program that evaluates trading crowd performance will encourage market makers to improve their performance. The PSE's program is substantially similar to the CBOE program, which has been in operation for over a year. Finally, the Commission believes that more stringent, formalized market maker standards will further enhance the integrity of the options markets and contribute to investor confidence and protection.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[10] that the proposed rule change is approved for a two year pilot period.[11]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Dated: April 22, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-9416 Filed 4-27-88; 8:45 am]

BILLING CODE 8010-01-M

[9] 15 U.S.C. 78f (1982).

[10] 15 U.S.C. 78s(b)(2) (1982).

[11] The Commission expects that at the conclusion of the two year pilot, the PSE should be able to evaluate the pilot and submit a rule change with any appropriate modifications for final approval.

[12] 17CFR 200.30-3(a)(12) (1987).

[Release No. 34-25606; File No. SR-Phlx-88-11]

Self-Regulatory Organizations Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Primary Issues on PACE

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 25, 1988, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. pursuant to Rule 19b-4 of the Act submits this proposed rule change permitting any orders in securities with primary listings on the Phlx to be received by the specialist over the Philadelphia Stock Exchange Automated Communication and Execution System ("PACE") on an order delivery system basis for manual execution.

The following constitutes the full text of the proposed rule change (additions are italicized)

Rules of Board of Governors

* * * * *

Rule 229 ..... No Change

* * * Supplementary Material

.01-.15 ..... No Change

.16 For securities in which the Exchange is the primary market, the specialist in that security may receive orders over the PACE system but such orders will not be subject to the automatic execution parameters set forth in this rule.

II. Self-Regulatory Organization's Statement Regarding the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Change

PACE currently provides to Phlx member organizations a cost efficient, competitive order delivery and execution system for public customer orders. At the present time, orders in securities which are primary listings on the Phlx are not eligible to be routed over PACE. These orders are now received by the specialist or by a broker via telephone line or private wire. As a service to our members, Phlx proposes to make PACE available as an order delivery system for primary issue orders. For purposes of this rule, Phlx "primary" issues would be deemed to include any securities traded solely on Phlx or any securities traded on Phlx that are listed on another regional exchange or on NASDAQ but that are not listed on the NYSE or Amex, whether these securities are listed on Phlx or traded on Phlx pursuant to unlisted trading privileges.

Participation by specialists and their customers will be voluntary like PACE is for issues in which the New York or American Stock Exchange is the primary market. Under the proposal, a specialist may elect to place the Phlx primary issue on PACE and member firms may elect to route orders in that issue to the Exchange for execution over PACE. This service, however, will only include order delivery. The orders will not be eligible for automatic execution. This new service is simply a convenience to give member firms and specialists an alternative method of delivering and receiving order flow. Executions of primary issue orders will continue to be made manually.

The proposed rule change is consistent with section 6(b)(5) of the Act in that it will facilitate transactions in securities and remove impediments to, and perfect the mechanism of, a free and open market and a national market system; and it will protect investors and be in the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the

proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments on this proposed rule change have been solicited or 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 Phlx 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

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to the file number in the caption above and should be submitted within May 19, 1988.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 21, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-9417 Filed 4-27-88; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

April 22, 1988.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Alliance Capital Management, LP
Units (File No. 7-3248)
Plains Petroleum Company
Common Stock, $.01 Par Value (File No. 7-3249)
Standard Commercial Corporation
Common Stock, $.20 Par Value (File No. 7-3250)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 13, 1988, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-9456 Filed 4-27-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25613; File No. SR-NASD-87-31]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

The National Association of Securities Dealers, Inc. ("NASD") submitted on August 21, 1987, a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder to amend Part II, section 1(c)(7) of Schedule D to the NASD By-Laws to provide for the inclusion of put warrants in the NASDAQ System.[1]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 25427, March 9, 1988) and by publication in the **Federal Register** (53 FR 8534, March 15, 1988). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: April 22, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-9454 Filed 4-27-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25612; File No. SR-NASD-88-4]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

The National Association of Securities Dealers, Inc. ("NASD") submitted on February 8, 1988, a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder. The proposal amends Article III, section 35(d)(2)(D) of the NASD Rules of Fair Practice to limit application of the rule on testimonial advertisements to testimonials concerning the quality of a member's investment advice and to

[1] The Commission's Division of Market Regulation takes the position that under certain circumstances the issuance of put warrants granting holders the right to sell to the issuing company a specified number of shares of the company's common stock at a specified price until a specified period of time may constitute an issuer tender offer. Accordingly, the application of Rule 13e-4 and related Schedule 13E-4 under the Act, 17 CFR 240.13e-4, must be considered at the time that put warrants are issued so that such holders are provided with the information required by, and the protections of, the issuer tender offer rules.

require disclosure of compensation paid to the person making a testimonial only if it is more than a nominal amount.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 25474, March 16, 1988) and by publication in the **Federal Register** (53 FR 9389, March 22, 1988). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: April 22, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-9455 Filed 4-27-88; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

April 22, 1988.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Wm. Wrigley Jr. Company
Common Stock, No Par Value (File No. 7-3241)
Imperial Corporation of America
Common Stock, $1.00 Par Value (File No. 7-3242)
PHM Corporation
Common Stock, $0.01 Par Value (File No. 7-3243)
Crompton & Knowles Corporation
Common Stock, $1.00 Par Value (File No. 7-3244)
Catalyst Energy Corporation
Common Stock, $0.10 Par Value (File No. 7-3245)
AMREP Corporation (New)
Common Stock, $0.10 Par Value (File No. 7-3246)
Tenneco, Inc. (New Holding Company)
Common Stock, $5.00 Par Value (File No. 7-3247)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 13, 1988, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-9457 Filed 4-27-88; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region IX Advisory Council; Public Meeting

The U.S. Small Business Administration, Region IX Advisory Council, located in the geographical area of Fresno, California, will hold a public meeting at 9:00 a.m. on Wednesday, May 25, 1988, at the Fresno District Office, 2202 Monterey Street, Suite 108, Fresno, California, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Peter J. Bergin, District Director, U.S. Small Business Administration, 2202 Monterey Street, Suite 108, Fresno, California 93721, (209) 487-5791.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 20, 1988.

[FR Doc. 88-9399 Filed 4-27-88; 8:45 am]

BILLING CODE 8025-01-M

Region X Advisory Council; Public Meeting

The U.S. Small Business Administration, Region X Advisory Council, located in the geographical area of Boise, Idaho, will hold a public meeting at 9:30 a.m. on Tuesday, May 3, 1988, at the Peppertree Restaurant, 888 North Holes, Idaho Falls, Idaho, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Joseph G. Kaeppner, District Director, U.S. Small Business Administration, 1020 Main, Suite 290, Boise, Idaho—(208) 334-9641.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 20, 1988.

[FR Doc. 88-9400 Filed 4-27-88; 8:45 am]

BILLING CODE 8025-01-M

Region VIII Advisory Council; Public Meeting

The U.S. Small Business Administration, Region VIII Advisory Council, located in the geographical area of Salt Lake City, Utah, will hold a public meeting at 10:00 a.m. on Tuesday, May 3, 1988, at the Little America Hotel, 500 South Main Street, Salt Lake City, Utah, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call R. Kent Moon, District Director, U.S. Small Business Administration, 125 South State Street, Salt Lake City, Utah 84138, (804) 524-5804.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 20, 1988.

[FR Doc. 88-9401 Filed 4-27-88; 8:45 am]

BILLING CODE 8025-01-M

[Public Notice CM-8/87]

U.S Organization for the International Telegraph and Telephone Consultative Committee (CCITT), Integrated Services Digital Network (ISDN) and Study Group C; Meeting

The Department of State announces that the Integrated Service 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 May 19, 1988, Room 1912, Department of State, 2201 C Street NW., Washington, DC. The meeting will begin at 9:30 a.m.

The agenda for the meeting is as follows:

1. Approval of Minutes of April 21, 1988, meeting.

2. Consideration of Contributions in Preparation for the Meeting of CCITT Study Group XVIII, June 6–17, 1988, Gevena.

3. Consideration of Nominations for U.S. delegation to CCITT Study Group XVIII meeting.

4. Other business.

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, enntrance 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 Barbely, State Department, Washington, DC; telephone (202) 653–6102. All attendees must use the C street entrance to the building.

April 8, 1988.

Earl S. Barbely,

Director, Office of Technical Standards and Development; Chairman, U.S. CCITT National Committee.

[FR Doc. 88–9334 Filed 4–27–88; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice CM-8/1188]

U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT), National Committee; Meeting

The Department of State announces that the National Committee of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on May 25, 1988 in Room 1912, Department of State, 2201 C Street, NW., Washington, DC. The meeting will begin at 9:30 a.m. and is scheduled for the entire day.

The National Committee assists in the resolution of administrative/procedural problems pertaining to U.S. CCITT activities; provides advice on matters of policy and positions in the preparation for CCITT Plenary Assemblies and meetings of the International Study Groups; provides advice and recommendations in regard to the work of the U.S. CCITT Study Groups; and recommends the disposition of proposed U.S. contributions to the international CCITT which are submitted to the Committee for consideration.

The purpose of the meeting is to:

1. Provide a briefing of the results of final meetings of CCITT Study Groups held to date.

2. Continue preparatory activities for CCITT Plenary Assembly, and in particular receive reports of the Ad-hoc groups assigned to review positions in the proposed texts of questions for the next Plenary Period, and candidates for leadership positions.

3. Continue preparatory activities for World Administrative Telegraph and Telephone Conference, Melbourne November 28–December 9, 1988.

4. Continue preparatory activities for the ITU Plenipotentiary Conference, 23 May–29 June, 1989, Nice France.

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 Barbely, State Department, Washington, DC; telephone (202) 653–6102. All attendees must use the C Street entrance to the building.

Date: April 18, 1988.

Earl S. Barbely,

Director, Office of Technical Standards and Development; Chairman, U.S. CCITT National Committee.

[FR Doc. 88–9335 Filed 4–27–88; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice CM-8/1190]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea Working Group on Bulk Chemicals; Meeting

The Working Group on Bulk Chemicals of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting on May 18, 1988 at 9:30 a.m. in Room 1303 at Coast Guard Headquarters, 2100 Second Street SW., Washington, DC.

The purpose of this meeting will be a general review of all agenda items for the eighteenth session of the International Maritime Organization (IMO) Subcommittee on Bulk Chemicals scheduled for May 23–27, 1988.

The agenda for this meeting includes the following items:

—Interpretations of MARPOL 73/78, Annex II
—Evaluation of chemicals shipped in bulk
—Venting requirements for chemical tankers
—Guidelines for the carriage of bulk chemicals on offshore support vessels

Members of the public may attend up to the seating capacity of the room.

For further information, contact Mr. Frits Wybenga, U.S. Coast Guard Headquarters (G–MTH–1), 2100 Second Street SW., Washington, DC 20593–0001, telephone (202) 267–1217.

Date: April 19, 1988.

Richard C. Scissors,

Chairman, Shipping Coordinating Committee.

[FR Doc. 88–9336 Filed 4–27–88; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice CM-8/1186]

Shipping Coordinating Committee; Meeting

The Shipping Coordinating Committee will conduct an open meeting on 3 May 1988 at 0930 in Room 6319 of U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC. The purpose of the meeting is to consider U.S. positions for the 4th Session of the International Maritime Organization (IMO)/United Nations Conference on Trade and Development (UNCTAD) Joint Intergovernmental Group of Experts (JIGE) on Maritime Liens and Mortgages and Related Subjects scheduled to be held in London from 16–20 May 1988.

The JIGE was established by IMO and UNCTAD pursuant to the recommendation contained in Resolution 6 of the 11th Session of the UNCTAD Working Group on International Shipping Legislation. As endorsed by the Council of IMO and the UNCTAD Trade and Development Board, the proposal called for meeting alternately in Geneva and London during scheduled meeting times of the IMO Legal Committee and the UNCTAD Working Group on International Shipping Legislation.

The JIGE is tasked with conducting a broad examination of the subject of maritime liens and mortgages, with consideration to be given to:

1. The revision of the various maritime liens and mortgages Conventions;

2. The preparation of model laws or guidelines on maritime liens, mortgages and related enforcement procedures, such as arrests; and

3. The feasibility of an international registry of maritime liens and mortgages.

IMO and UNCTAD have identified the following major objectives as deserving of priority consideration in any investigations regarding possible international action on maritime liens and mortgages:

1. To encourage ship financing by affording appropriate protection to persons providing finance;

2. To afford protection in respect of settled claims;

3. To encourage the provision of services to ships;

4. To protection the ship against multiple actions; and

5. To minimize the potential encumbrances to ship operation.

The JIGE held its 1st Session in Geneva on 1–12 December 1986. The principal outcome of the meeting was the adoption of joint procedural rules; the substantive work undertaken was an exploratory discussion of the major issues and objectives noted above. This discussion revealed strong interest in studying the present international framework and considering substantial revisions that would both promote uniformity and favor the mortgagee. As a preliminary matter, a number of participants questioned the nature and extent of the preceived need to improve the availability of vessel financing.

The 2nd Session of the JIGE was held in London from 11–15 May 1987. The JIGE participants adopted the 1967 Brussels Convention on Maritime Liens and Mortgages as the preliminary discussion text and prepared a new convention draft. The provisions of the tentative draft reflect the consensus view that the number and scope of the maritime liens preferred to the mortgage should be curtailed in order to enhance the ship mortgagee's security.

The JIGE met for its 3rd Session in Geneva during the period from 30 November-11 December 1987. Substantive work focused on the tentative convention draft as revised during the intersessional on the basis of the deliberations at the 2nd Session. Although significant differences emerged concerning specific approaches, there was considerable support for additional revisions intended to improve the mortgagee's position still further. However, there was some limited support for the establishment of a short list (which might include ship supplier liens) of non-preferred maritime liens entitled to international recognition if created by domestic law.

As noted above the 4th Session is scheduled for 16–20 May 1988. It is expected that the key issues will include maritime liens/rights of retention, registration/deregistration, forced sales, and scope of application. The implications of existing bareboat charter registration practice will also receive particular attention. Finally, there will be an exploratory discussion of vessel arrest and related subjects in order to plan for the 5th Session scheduled for December 1988 in Geneva.

Members of the public are invited to attend the Shipping Coordinating Committee meeting, up to the seating capacity of the room.

After a brief report on the 3rd Session of the JIGE, the balance of the agenda for the 3 May 1988 public meeting will involve discussion of the key issues for the 4th Session. For further information pertaining to the issues to be discussed or the progress of JIGE work to date, contact either Captain Frederick F. Burgess, Jr., or Lieutenant Commander Frederick M. Rosa, Jr., U.S. Coast Guard (G–LMI), Washington, DC 20593, telephone (202) 267–1527.

Date: April 12, 1988.

Richard C. Scissors,

Chairman, Shipping Coordinating Committee.

[FR Doc. 88–9337 Filed 4–27–88; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Mason County, KY and Brown County, OH

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 bridge project in Mason County, Kentucky/Brown County, Ohio.

FOR FURTHER INFORMATION CONTACT: Robert E. Johnson, Division Administrator, FHWA, 330 W. Broadway, P.O. Box 536, Frankfort, Kentucky 40602–0536. Phone (502) 227–7321; FTS 352–5468 of Mr. G.F. Hughes, Jr., Director, Division of Environmental Analysis, Kentucky Transportation Cabinet, 419 Ann Street, Frankfort, Kentucky 40622. Phone (502) 564–7250.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Kentucky Transportation Cabinet, is preparing an environmental impact statement in Mason County, Kentucky/Brown County, Ohio. The proposed improvement provides for the construction of a bridge over the Ohio River between the cities of Maysville, Kentucky, and Aberdeen, Ohio. The bridge is needed to alleviate heavy traffic from the existing Simon Kenton Suspension Bridge and would supplement the existing bridge by providing an alternative crossing of the river. The bridge will be two lanes with full width emergency lanes. The study area is from Ripley, Ohio, about nine miles downstream from the existing bridge at Maysville to Stuart Power Plant, about four miles upstream from the existing bridge. Within that area, nine different alignment alternatives were studied.

Possible alternatives under consideration include the (1) do-nothing, (2) project postponement and (3) three remaining viable alignment alternatives. A brief description of these alternatives follow:

Alternative 2. Alternative 2 begins at the AA Highway two miles west of the intersection with US 62/68. The alignment proceeds generally northward, crossing KY 435, the South Fork of Lawrence Creek and follows Beasley Creek to the River. It connects in Ohio to US 52 at the eastern city limits of Ripley.

Alternative 3. Alternative 3 begins at the AA Highway two miles west of the intersection with US 62/68, turns northeastward to follow a branch of Lawrence Creek, crosses that creek east of Moranburg, ascends Jersey Ridge to cross Boone Lane, descends the north face to cross over KY 8, the railroad and the river to intersect US 52 in Ohio about 2 miles west of Aberdeen.

Alternative 5. Alternative 5 begins at US 62/68 at the bottom of the hill near the intersection of KY 11. It is elevated over Limestone Creek, two railroads, and a portion of Maysville, then across the river connecting with an interchange to US 52 in Ohio.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Two (2) interdisciplinary team meetings have been held. In addition, public meetings soliciting project input and a formal public hearing will be held upon approval of the DEIS. 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 hearing. A formal scoping meeting has been held with representative of both cities and states.

It is estimated that the draft EIS will be available for public review in July 1988.

Issued On: April 21, 1988

Robert E. Johnson,

Division Administration, Frankfort, Kentucky.

[FR Doc. 88-9338 Filed 4-27-88; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1987 Rev., Supp. No. 18]

Surety Companies Acceptable on Federal Bonds; Heart of America Fire and Casualty Co.

A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following company under sections 9304 and 9308, Title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1987 Revision, on page 24614 to reflect this addition:

Heart of America Fire and Casualty Company. Business Address: 215 West Pershing Road, Kansas City, MO 64108-2540. Underwriting Limitation *b/: $382,000. Surety Licenses c/:* AK, AZ, IN, IA, KS, MS, MO, NV, UT. INCORPORATED IN: Missouri. Federal Process Agents *d/.*

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as along as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, DC 20227, telephone (202) 287-3921.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

Dated: April 22, 1988.

[FR Doc. 88-9375 Filed 4-27-88; 8:45 am]

BILLING CODE 4810-35-M

Internal Revenue Service

Income Taxes; 1989 Electronic Filing Program: Forms 1040, 1040A and 1040EZ Returns

AGENCY: Internal Revenue Service, Treasury.

ACTION: Electronic Filing Program.

SUMMARY: In 1989 the Internal Revenue Service plans to continue the program to file individual income tax returns electronically. Accepted return preparers will be permitted to transmit electronically, their clients' individual income tax returns for 1988. Most commonly used forms and schedules will be accepted.

Electronic returns can be accepted from preparers in 48 districts. Taxpayers in all 48 districts can elect to have their refunds directly deposited in their bank, savings and loan, or credit union account.

Application Dates: Software firms, service bureaus, transmitters and communication networks must file an application (Form 8633) by October 1, 1988. Preparers who intend to only prepare returns for third party transmission must file by November 15, 1988.

Inquiries: Interested parties should contact the Electronic Filing Coordinator (EFC) for information after May 23, 1988. Inquiries can be made by either telephone or mail. The nationwide telephone number is 1-800-424-1040 (ask for the EFC). Correspondence should be sent to the Internal Revenue Service at the appropriate address listed below; Attention EFC:

ADDRESSES:

Alabama: 500 22nd St. South, Stop 318, Birmingham, AL 35233

Alaska: 949 Est 36th Avenue, Anchorage, AK 99508

Arizona: 2120 U. Central Ave, Stop 6620 PX, Phoenix, AZ 85004

California:

Laguna Niguel, 2400 Avila Rd., Laguna Niguel, CA 92677

Los Angeles, 300 N. Los Angeles St., Los Angeles, CA 90012

Sacramento, P.O. Box 2900 S.A. 5601, Sacramento, CA 95812-2900

San Francisco, 450 Golden Gate Ave., San Francisco, CA 94102

San Jose, 55 South Market St., San Jose, CA 95113

Colorado: 1050 Seventeenth St, Stop 1000, Denver, CO 80265

Connecticut: 135 High St. Stop 204, Hartford, CT 06103

Florida:

Ft. Lauderdale, One N. University Dr. Bldg. B, Ft. Lauderdale, FL 33324

Jacksonville, 400 W. Bay St., Jacksonville, FL 32202

Idaho: 550 W. Fort St., Boise, ID 83724

Illinois:

Chicago, 230 S. Dearborn St., Chicago, IL 60604

Springfield, 320 W. Washington St. Room 702, Springfield, IL 62701

Indiana: 575 N. Pennsylvania St., Indianapolis, IN 46204

Kentucky: 601 W. Broadway Stop 130, Louisville, KY 40202

Maine: 68 Sewall St., Augusta, ME 04330

Maryland: 31 Hopkins Plaza, Baltimore, MD 21201

Massachusetts: JFK Federal Bldg., Boston, MA 02203

Michigan: 2483 McNamara Bldg., 477 Michigan Ave., Detroit, MI 48226

Montana: 301 S. Park Ave (Fed. Bldg 2nd floor), Helena, MT 59626-0016

Nebraska: 106 South 15th St., Omaha, NE 68102

Nevada: 300 Las Vegas Blvd., South, Las Vegas, NV 89101

New Hampshire: 80 Daniel St., Portsmouth, NH 03801

New York:

Albany, Les O'Brien Federal Bldg, Clinton Ave. & Nr. Pearl St., Albany, NY 12207

Brooklyn, 35 Tillary St., Brooklyn, NY 11201

Buffalo, 111 W. Huron St., Buffalo, NY 14202

Manhattan, 120 Church St., New York, NY 10007

North Carolina: 320 Federal Place, Greensboro, NC 27401

North Dakota: 653 Second Ave., N, Fargo, ND 58102

Ohio:

Cincinnati, 550 Main St, Room 1023, Cincinnati, OH 45202

Cleveland, 1240 E. Ninth St., Cleveland, OH 44199

Oregon: 1220 S.W. Third Ave., Portland, OR 97204

Rhode Island: 380 Westminster Mall, Providence, RI 02903

South Carolina: 1835 Assembly St., Columbia, SC 29201

South Dakota: 115 Fourth Ave, S.E., Aberdeen, DS 57401

Tennessee: 801 Broadway, Nashville, TN 37203

Texas:

Austin, 300 E. Eighth St., Stop 1000 AUS, Austin, TX 78701

Dallas, 1100 Commerce St., MC6610 DAL, Dallas, TX 75242

Houston, 3223 Briarpark Stop 1000 H-BP, Houston, TX 77042

Utah: 465 South 400 East, Salt Lake City, UT 84111

Vermont: 11 Elmwood Ave., Burlington, VT 05401

Virginia: 400 N. Eighth St., Richmond, VA 23240

Washington: 915 Second Ave., Stop 660, Seattle, WA 98174

West Virginia: 425 Juliana St., Parkersburg, WV 26101

Wisconsin: P.O. Box 493, Milwaukee, WI 53201

Wyoming: 308 W. Twenty-First St., Cheyenne, WY 82001

The above districts represent the following states:

Alabama	Nevada
Alaska	New Hampshire
Arkansas	New York
Arizona	North Carolina
California	North Dakota
Colorado	Ohio
Connecticut	Oregon
Florida	Rhode Island
Idaho	South Carolina
Illinois	South Dakota
Indiana	Tennessee
Kentucky	Texas
Maine	Utah
Maryland	Vermont
Massachusetts	Washington
Michigan	West Virginia
Montana	Wisconsin
Nebraska	Wyoming

The remaining districts and their respected states will be added in 1990.

SUPPLEMENTARY INFORMATION: In 1989 Forms 1040, 1040A, and 1040EZ can be filed electronically. Forms 1040 can include Schedules A, B, C, D, E, F, R, SE, and Forms W-2, W-2P, W-2G, 2106, 2119, 2441, 3903, 4136, 4255, 4562, 4684, 4797, 6198, 6251, 6252, 8283, 8582, 8598, 8606.

The principal advantages of electronic filing are: (1) Most taxpayers will receive refunds two or three weeks faster than if their returns had been filed in the form of paper documents; (2) returns preparers will be able to serve their clients more efficiently; (3) the cost to IRS of processing, storing and retrieving these returns will be reduced substantially, and (4) taxpayers participating in direct deposit will obtain their refunds quickly and more conveniently.

Applicants must meet the following qualifications to be accepted:

1. Intend to self transmit at least 500 tax year 1988 electronic returns in 1989 or if less than 500 electronic returns, transmit through a commercially accepted system;

2. have substantial communications experience under IBM 3780 bi-synchronous protocol at 4800 BAUD through a dial-up modem or associated with another firm which has such experience;

3. the transmitter has the option of using 9600 BPS dedicated lines provided they supply their own modem. 9600 BPS users can utilize the Packett-Switching Network Interface Standard as defined by the CCITT recommended x.25 (1980);

4. have an office in one or more of the designated IRS district offices included for 1989;

Note: The following do not need to be located within one of the designated districts:

(a) Software firms who plan only to develop software packages for use by participating electronic filers,

(b) Transmitters only providing transmission service to IRS, and

(c) Communications networks providing transmission capability (such as telephone lines) for returns which someone else transmits.

5. Comply with the acceptance procedures; and

6. Observe all requirements of the Revenue Procedure.

While there is no geographic restriction on the taxpayers participating in electronic filing, active solicitation of business outside of the districts is prohibited. Taxpayers who reside outside of the designated districts must appear in person at a preparer's office within the designated districts.

Leonard Holt,

Assistant Project Officer, Marketing and Operations.

[FR Doc. 88-9436 Filed 4-27-88; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 82
Thursday, April 28, 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).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, May 6, 1988.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 88–9494 Filed 4–26–88; 10:52 am]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, May 13, 1988.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 88–9495 Filed 4–26–88; 10:52 am]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, May 13, 1988.

PLACE: 2033 K St. NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 88–9496 Filed 4–26–88; 10:52 am]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, May 27, 1988.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 88–9497 Filed 4–26–88; 10:52 am]

BILLING CODE 6351-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:35 a.m. on Monday, April 25, 1988, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider the following matters:

Application for Federal deposit insurance and request for exemption pursuant to section 348.4(b)(2) of the Corporation's rules and regulations:

Colonial State Bank, a proposed new bank to be located on the northeast corner of the intersection of Route 33 (Park Avenue) and South Street, Freehold, New Jersey.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 47,206–NR
Golden Pacific National Bank, New York City (Manhattan), New York

Appeal from an initial denial of a request for records pursuant to the Freedom of Information Act.

Recommendations regarding administrative enforcement proceedings involving officers, directors, employees, agents, or other persons participating in the conduct of the affairs of certain insured banks: (Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

In calling the meeting, the Board determined, on motion of Director C. C. Hope, Jr. (Appointive), seconded by Chairman L. William Seidman, concurred in by Mr. Robert J. Herrmann, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), 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 by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

Dated: April 25, 1988.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Assistant Executive Secretary (Operations).

[FR Doc. 88–9506 Filed 4–26–88; 12:12 pm]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:02 a.m. on Friday, April 22, 1988, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session 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. Clarke (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 by the authority of subsections (c)(4), (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)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: April 25, 1988

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Assistant Executive Secretary (Operations).

[FR Doc. 88-9507 Filed 4-26-88; 12:12 pm]

BILLING CODE 6714-01-M

FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" NO.: 88-8884.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, April 28, 1988, 10:00 a.m.

CHANGE IN MEETING: The open meeting scheduled for this date was cancelled.

* * * * *

DATE AND TIME: Tuesday, May 3, 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.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, May 5, 1988, 10:30 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 Presidental Primary Matching Funds.
Draft AO 1988-15—Randall E. Johnson on behalf of General Mills, Inc.
Routine Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, information Officer, Telephone: 202-376-3155.

Mary W. Dove,

Administrative Assistant.

[FR Doc. 88-9502 Filed 4-26-88; 12:12 pm]

BILLING CODE 6715-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 53 FR 12864, April 19, 1988.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11:00 a.m., Monday, April 25, 1988.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting:

Legislative recommendations for the Annual Report.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Date: April 25, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-9475 Filed 4-25-88; 4:54 pm]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, May 31, 1988.

PLACE: Room 532, (open); Room 540 (closed) Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, DC, 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to Public

(1) Oral Argument in MidCon Corporation, Docket No. 9198

Portions closed to the Public

(2) Executive Session to follow Oral Argument in MidCon Corporation, Docket No. 9198.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Affairs: (202) 326-2179; Recorded Message: (202) 326-2711.

Emily H. Rock,

Secretary.

[FR Doc. 88-9458 Filed 4-25-88; 4:51 pm]

BILLING CODE 6750-01-M

INTERNATIONAL TRADE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 53FR76—dated April 20, 1988.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Thursday, April 28, 1988.

CHANGES IN THE MEETING: Meeting scheduled for Thursday, April 28, 1988 is cancelled.

In conformity with 19 CFR 201.37(b), Commissioners Liebeler, Brunsdale, Eckes, Lodwick, Rohr, and Cass determined by unanimous vote that Commission business required the cancellation of the meeting scheduled for Thursday, April 28, 1988, and affirmed that no earlier announcement of the cancellation was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 252-1000.

Kenneth R. Mason,

Secretary.

April 22, 1988.

[FR Doc. 88-9470 Filed 4-25-88; 4:52 pm]

BILLING CODE 7020-02-M

RAILROAD RETIREMENT BOARD

Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on May 3, 1988, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

(1) Proposed Changes in the RUIA Regulations
(2) Setting of FTEs and Organizational Alignment
(3) Repayment of the RUIA Loan
(4) Work Stoppage—Springfield Terminal Railway Company—November 12, 1987
(5) Board Order 75-1, Restating the Administrative Organization and Functions of the Board
(6) Proposed Disability Regulations
(7) Appeal of Nonwaiver of Overpayment, Floyd A. Redmond

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, COM No. 312-751-4920, FTS No. 386-4920.

Dated: April 22, 1988.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 88-9471 Filed 4-25-88; 4:53 pm]

BILLING CODE 7905-01-M

federal register

Thursday
April 28, 1988

Part II

Department of Education

34 CFR Part 31

Salary Offset for Federal Employees Who Are Indebted to the United States Under Programs Administered by the Secretary of Education; Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Part 31

Salary Offset for Federal Employees Who Are Indebted to the United States Under Programs Administered by the Secretary of Education

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary of Education (Secretary) proposes to amend regulations governing the use of offset against current pay accounts of Federal employees and payments due from the accounts of former employees under Civil Service Retirement System or the Federal Employees Retirement System to recover amounts owed on debts arising under programs administered by the Secretary. The amendments are proposed in order to simplify the procedure used to provide the employee notice of the proposed offset, as well as the procedures used to permit an employee to inspect records relating to the debt, to secure a hearing on the debt or proposed offset schedule, and to enter into a repayment agreement for the debt in order to avoid collection by offset.

DATES: Comments must be received on or before May 31, 1988.

ADDRESS: All comments concerning these proposed regulations should be addressed to the U.S. Department of Education, Credit Management Improvement Staff, Room 3017, FOB 6, 400 Maryland Ave. SW., Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Jim Nielson (202) 732–4194.

SUPPLEMENTARY INFORMATION:

The Secretary proposes to amend the rules governing the collection of debts arising under programs administered by the Department of Education by offset against payments of salary of a Federal employee. Under the proposed rules, the procedures used by the Department to provide Federal employees notice of the debt and the proposed offset schedule, access to records regarding the debt, an opportunity for a hearing on the debt or the proposed offset schedule, and an opportunity to enter into a repayment arrangement with the Secretary in order to avoid or modify a proposed offset will be revised to follow more closely the procedures used by the Department under Part 30 for collection by offset against Federal income tax refunds. These proposed changes will simplify and expedite the current salary offset process. The revised regulations would still be consistent with the requirements of the Debt Collection Act and government-wide regulations issued by the Office of Personnel Management (OPM). In fact, the proposed rules are more generous in that they give the debtor 65 days to respond to the pre-offset notice; only a 30 day notice is required under the Act and under OPM rules.

In addition, the Secretary proposes to use the procedures under this part to collect by offset against amounts payable to a former Federal employee or the beneficiary of such an employee from an account under the Civil Service Retirement System or Federal Employee Retirement System, referred to generally in the proposed rules as the Federal retirement account of the employee. Offsets against amounts payable from the Federal retirement account of an employee will ordinarily be sought after attempted offsets from current pay prove insufficient to satisfy the debt, or if the debtor is no longer employed by the Federal government.

The proposed rule would, under proposed § 31.3, modify certain aspects of the pre-offset notice given to the employee and the periods in which the employee must exercise the procedural rights available to contest the debt and the offset. Current regulations provide the employee with two notices: an advance notice of proposed offset, to which the employee has 45 days to respond to contest the debt or the offset, § 31.4, and a formal notice of proposed offset under § 31.5, issued at least 30 days before the start of the proposed offset. Based on the experience gained in implementing the tax refund offset program over the past three years, the Secretary concludes that a single pre-offset notice with a single appeal period is sufficient. The proposed rule in § 31.5(a) would therefore provide that the employee must file a request for a hearing on the debt or the offset schedule before the later of 65 days from the date of the pre-offset notice, or 15 days from the date on which the Secretary makes available records requested in a timely manner.

Corresponding changes are proposed to allow a period of 20 days from the date of the pre-offset notice within which the employee must request access to records, § 31.4(a)(1), and specified periods within which the employee can reach an alternative payment agreement with the Secretary and avoid offset, or can by agreement modify a proposed offset schedule. § 31.10(a).

The proposed rule will clarify in § 31.3(a)(10) that it is the policy of the Secretary to grant requests for access to records, a hearing on the debt or the offset schedule, or an opportunity to enter into a repayment agreement for all employees who so request, but that the Secretary delays the start of the offset until completion of the requested relief only if the employee makes the request in a timely manner and otherwise complies with the requirements of this part regarding the exercise of these rights. § 31.11(c)(2). In the event that the offset has been implemented with regard to an employee who belatedly requests relief, and the debt is later determined to be unenforceable in whole or in part, or the offset schedule is determined to cause the employee extreme financial hardship, the Secretary will take steps needed to refund any amount collected by offset in excess of the amount determined to be authorized. § 31.3(a)(13).

The proposed rule would also simplify the hearing process in a number of ways. A hearing requested under this part is conducted by a hearing official who is not under the control or supervision of the Secretary; the Secretary will continue to regard the hearing right accorded the employee under 5 U.S.C. 5514(a)(2)(D) and 31 U.S.C. 3716(b) as a right to a hearing appropriate to the resolution of the issues raised by the employee in objecting to the offset. In accordance with 4 CFR 102.3 and Department policy under Part 30, the Secretary ordinarily provides this hearing as a "paper hearing," or a hearing on written submissions, unless the employee specifically requests an oral hearing and demonstrates that evaluation of testimonial evidence is necessary to adequately resolve issues raised by the employee in contesting the debt or the offset schedule. § 31.5(c)(1). In addition, a request for an oral hearing may be denied as unnecessary if the Secretary fully accepts the employee's statement of the facts for which testimony would be offered. If the Secretary grants an oral hearing, the employee must, under proposed § 31.5(d), confirm within ten days of the notice of oral hearing that he or she intends to proceed with the oral hearing; the employee may also withdraw the request at that time and receive a hearing on written submissions. However, if the employee neither confirms that intention nor requests that the hearing be confined to the written submissions, or if the employee does not appear for a hearing, the employee waives the request for a hearing of any kind, and the offset will be made in the manner proposed in the pre-offset notice. § 31.5(e).

The proposed rule does not change the responsibility or authority of the hearing official. Proposed § 31.7(e) would provide that the burden of proof

of facts in the hearing lies on the proponent of the fact: The Secretary bears the burden of proof, by a preponderance of the evidence, regarding the existence, amount, and delinquent status of the debt; the employee bears the burden of proof, by a preponderance of the evidence, regarding any objection raised to the enforceability of the debt by offset, or any claim that the proposed offset schedule would cause the employee extreme financial hardship.

The proposed rule would not change the standards to be applied by the hearing official in determining disputed issues: proposed § 31.8 basically restates those principles for determining enforceability of the debt by offset and establishing extreme financial hardship that are now found in 34 CFR 31.11 and 31.12. The proposed regulations, like current regulations, do not address the conditions for waiver of the debt because virtually all of the debts to be collected by offset under this part are student loan debts arising under programs under Title IV of the Higher Education Act of 1965, as amended, including the Guaranteed Student Loan Program (GSLP) and the Perkins Loan Program. Although the authorizing statutes permit the Secretary to waive rights acquired under the programs, these loan agreements themselves contain no provision for waiver of indebtedness. Both Perkins loans and GSLP loans do contain provisions for canceling the loan debt on account of death or disability of the borrower, and Perkins loans permit cancellation of various fractions of the loan obligation for qualifying teaching or volunteer service. Although such cancellations might fall within the definition of the term "waiver" as used in Office of Personnel Management regulations at 5 CFR 550.1103, the Secretary treats such cancellation provisions, to the extent that applicable program regulations permit a borrower in default to claim their benefit, as grounds for redetermining the amount owed on the debt.

Most of the debts to be collected under this part arise under the GSLP and Perkins Loan Program. The Secretary routinely reports these debts to consumer reporting agencies after following the procedures established in 34 CFR 30.35. That section incorporates the provision in 34 CFR 30.22(d) that the Secretary may report the debt without providing the opportunity to contest the debt, if the debtor has already been notified of the proposed offset or reporting and been provided an opportunity to contest that action. Therefore, if a debt owned by a Federal employee has not previously been reported to a consumer reporting agency, the Secretary may, at the same time that the pre-offset notice is provided under this part, notify the debtor of the intent to report the debt to a consumer reporting agency. In that case, the Secretary will provide a single appeal procedure, under this part, that will satisfy both the requirements of this part and those found in Part 30.

The proposed rules further clarify that the Secretary reserves the right to employ offset in accordance with the provisions of section 124 of Pub. L. 97–276 against salary to collect debts owed on judgments secured by the United States. This authority permits deductions of "reasonable amounts" of up to 25 percent of the pay of the judgment debtor. The Secretary may use the procedures or standards in this part to determine such reasonable amounts.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities, because they would affect only individuals, who are not included within the definition of "small entities" in the Regulatory Flexibility Act.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. All comments submitted in response to these proposed regulations will be available for public inspection during and after the comment period in Room 3017, FOB–6, 400 Maryland Avenue SW., Washington, DC 20202 between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week, except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

List of Subjects in 34 CFR Part 31

Claims, Debt collection.

Dated: April 21, 1988.

William J. Bennett,

Secretary of Education.

The Secretary proposes to revise Part 31 of Title 34 of the Code of Federal Regulations to read as follows:

PART 31—SALARY OFFSET FOR FEDERAL EMPLOYEES WHO ARE INDEBTED TO THE UNITED STATES UNDER PROGRAMS ADMINISTERED BY THE SECRETARY OF EDUCATION

Sec.
31.1 Scope.
31.2 Definitions.
31.3 Pre-offset notice.
31.4 Request to inspect and copy documents relating to a debt.
31.5 Request for hearing on the debt or the proposed offset.
31.6 Location and timing of oral hearing.
31.7 Hearing procedures.
31.8 Rules of decision.
31.9 Decision of the hearing official.
31.10 Request for repayment agreement.
31.11 Offset process.

Authority: 5 U.S.C. 5514; 31 U.S.C. 3716.

§ 31.1 Scope.

(a) *General.* The Secretary establishes the standards and procedures in this part that apply to the offset from disposable pay of a current or former Federal employee or from amounts payable from the Federal retirement account of a former Federal employee to recover a debt owed the United States under a program administered by the Secretary of Education.

(b) *Exclusions.* This part does not apply to—

(1) Offset under 34 CFR Part 32 to recover for overpayments of pay or allowances to an employee of the Department;

(2) Offsets under 34 CFR Part 30; or

(3) Offsets under Sec. 124 of Pub. L. 97–276 to collect debts owed to the United States on judgments.

(c) *Reports to consumer reporting agency.* The Secretary may report a debt to a consumer reporting agency after notifying the employee, in accordance with 34 CFR 30.35, of the intention to report the debt, and after providing the employee an opportunity to inspect records, receive a hearing, and enter into a repayment agreement under this part.

(Authority: 5 U.S.C. 5514; 31 U.S.C. 3711; 31 U.S.C. 3716)

§ 31.2 Definitions.

As used in this part:

"Agency" means—

(1) An Executive department, military department, Government corporation, or independent establishment as defined in

5 U.S.C. 101, 102, 103, or 104, respectively;

(2) The United States Postal Service; or

(3) The Postal Rate Commission.

"Days" refer to calendar days.

"Department" means the Education Department.

"Disposable pay" means the amount that remains from an employee's pay after required deductions for Federal, State, and local income taxes; Social Security taxes, including Medicare taxes; Federal retirement programs; premiums for basic life insurance and health insurance benefits; and such other deductions that are required by law to be withheld.

"Employee" means a current or former—

(1) Civilian employee, as defined in 5 U.S.C. 2105;

(2) Member of the Armed Forces or Reserves of the United States;

(3) Employee of the United States Postal Service; or

(4) Employee of the Postal Rate Commission.

In the case of an offset proposed to collect a debt owed by a deceased employee, the references in this part to the procedural rights of the employee shall be read to include the payee of benefits from the Federal retirement account or other pay of the employee.

"Federal retirement account" means an account of an employee under the Civil Service Retirement System or the Federal Employee Retirement System.

"Offset" means a deduction from the pay of an employee, or a payment due from the Federal retirement account of an employee, to satisfy a debt.

"Pay" means basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an individual not entitled to basic pay, other authorized pay, including severance pay or lump sum payments for accrued annual leave, and amounts payable from the Federal retirement account of an employee.

"Secretary" means the Secretary of the Department of Education or an official or employee of the Department acting for the Secretary under a delegation of authority.

(Authority: 5 U.S.C. 5514; 31 U.S.C. 3716)

§ 31.3 Pre-offset notice.

(a) At least 65 days before initiating an offset against the pay of an employee, the Secretary sends a written notice to the employee stating—

(1) The nature and amount of the debt;

(2) A demand for payment of the debt;

(3) The manner in which the Secretary charges interest, administrative costs, and penalties on the debt;

(4) The Secretary's intention to collect the debt by offset against—

(i) 15 percent of the employee's disposable pay; and,

(ii) A specified amount of severance pay, a lump sum annual leave payment, a final salary check, or payments from the Federal retirement account of the employee, if the debt cannot be satisfied by offset against disposable pay;

(5) The amount, frequency, approximate beginning date and duration of the proposed offset;

(6) The employee's opportunity to—

(i) Inspect and copy Department records pertaining to the debt;

(ii) Obtain a pre-offset hearing before a hearing official who is not under the control or supervision of the Secretary regarding the existence or amount of the debt, or the proposed offset schedule; and

(iii) Enter into a written agreement with the Secretary to repay the debt;

(7) The date by which the employee must request an opportunity set forth under paragraph (a)(6) of this section;

(8) The grounds for objecting to collection of the debt by offset;

(9) The applicable hearing procedures and requirements;

(10) That the Secretary grants any request for access to records, for a hearing, or for a satisfactory repayment agreement made by a debtor;

(11) That the Secretary does not delay the start of the proposed offset unless a debtor makes the request for access to records, for a hearing, or for a satisfactory repayment agreement within the time periods described in this part;

(12) That a final decision on the hearing will be issued not later than 60 days after the hearing petition is filed, unless a delay in the proceedings is granted at the request of the debtor;

(13) That submission by the employee of knowingly false statements, representations or evidence may subject the employee to applicable disciplinary procedures, or civil or criminal penalties; and

(14) That any amounts paid or collected by offset on a debt later determined to be unenforceable or canceled will be refunded to the debtor.

(b)(1) In determining whether an employee has requested an opportunity set forth under paragraph (a)(6) of this section in a timely manner, the Secretary relies on—

(i) A legibly dated U.S. Postal Service postmark for the employee's request; or

(ii) A legibly stamped U.S. Postal Service mail receipt for the employee's request.

(2) The Secretary does not rely on either of the following as proof of mailing:

(i) A private metered postmark.

(ii) A mail receipt that is not dated by the U.S. Postal Service.

(c) The Secretary may initiate an offset before providing the employee a hearing, access to records, or a repayment agreement if the debtor does not request the hearing or access, or does not execute the agreement, in a timely manner and in accordance with other requirements of these regulations.

(d) Payment by offset under this part of all or part of a debt does not constitute an acknowledgment of the debt or a waiver of rights available to the employee under this part or other applicable law if the employee has not agreed in writing to the offset.

(Authority: 5 U.S.C. 5514; 31 U.S.C. 3716)

§ 31.4 Request to inspect and copy documents relating to a debt.

(a) The Secretary makes available for inspection and copying before offset under this part those Department documents that relate to the debt, if the employee—

(1) Files a written request to inspect and copy the documents within 20 days of the date of the pre-offset notice under § 31.3, and

(2) Files the request at the address specified in that notice.

(b) A request filed under paragraph (a)(1) of this section must contain—

(1) All information provided to the employee in the pre-offset notice under § 31.3 that identifies the employee and the debt, including the employee's Social Security number and the program under which the debt arose, together with any corrections of that identifying information; and

(2) A reasonably specific identification of the documents that the employee wishes to have available for inspection and copying.

(c) The Secretary may decline to provide an opportunity to inspect and copy documents before initiating an offset if the employee fails to request inspection and copying in accordance with this section.

(Authority: 5 U.S.C. 5514; 31 U.S.C. 3716)

§ 31.5 Request for hearing on the debt or the proposed offset.

(a) *Deadlines.* (1) The Secretary provides a hearing before offset on the existence, amount, or enforceability of the debt described in the pre-offset notice provided under § 31.3, or on the amount or frequency of the offsets as proposed in that notice, if the employee—

(i) Files a request for the hearing within the later of—

(A) 65 days after the date of the pre-offset notice provided under § 31.3;

(B) 15 days after the date on which the Secretary makes available to the employee the relevant, requested documents if the employee had requested an opportunity to inspect and copy documents within 20 days of the date of the pre-offset notice provided under § 31.3; and

(ii) Files a request at the address specified in that notice.

(2) The Secretary may initiate an offset before providing a hearing if the employee does not submit, within the time requirements set forth in paragraph (a)(1) of this section, a request that meets the requirement of paragraphs (b) and (c) of this section.

(b) *Contents of request.* A request for a hearing must contain—

(1) All information provided to the employee in the pre-offset notice under § 31.3 that identifies the employee and the particular debt, including the employee's Social Security number and the program under which the debt arose, together with any corrections needed with regard to that identifying information;

(2) An explanation of the reasons why the employee believes that—

(i) The debt as stated in the pre-offset notice is not owing or is not enforceable by offset; or

(ii) The amount of the proposed offset described in the pre-offset notice will cause extreme financial hardship to the employee;

(3) If the employee contends that the amount of the proposed offset will cause extreme financial hardship under the standards set forth in § 31.8(b)—

(i) An alternative offset proposal;

(ii) An explanation, in writing, showing why the offset proposed in the notice would cause an extreme financial hardship for the employee; and

(iii) Documents that show for the employee and for the spouse and dependents of the employee, for the one-year period preceding the Secretary's notice and for the repayment period proposed by employee in his or her offset schedule—

(A) Income from all sources,

(B) Assets,

(C) Liabilities,

(D) Number of dependents,

(E) Expenses for food, housing, clothing, and transportation,

(F) Medical expenses, and

(G) Exceptional expenses, if any; and

(4) Copies of all documents that the employee wishes to have considered to support the objections raised by the employee regarding the enforceability of the debt or the claim of extreme financial hardship.

(c) *Request for oral hearing.* (1) If the employee wants the hearing to be conducted as an oral hearing, the employee must submit a request that contains the information listed in paragraph (b) and must include with the request—

(i) An explanation of reasons why the employee believes that the issues raised regarding the enforceability of the debt or a claim of extreme financial hardship cannot be resolved adequately by a review of the written statements and documents provided with the request for a hearing;

(ii) An identification of—

(A) The individuals that the employee wishes to have testify at the oral hearing;

(B) The specific issues about which each individual is prepared to testify; and

(C) The reasons why each individual's testimony is necessary to resolve the issue.

(2) The Secretary grants a request for an oral hearing if—

(i) The employee files a request for an oral hearing that meets the requirements of paragraphs (b) and (c) of this section; and

(ii) The Secretary determines that the issues raised by the employee require a determination of the credibility of testimony and cannot be adequately resolved by a review of the written statements and documents submitted by the employee and documents contained in the Department's records relating to the debt.

(3) The Secretary may decline a request for an oral hearing if the Secretary accepts the employee's proffer or testimony made in the request for an oral hearing under paragraph (c)(1) of this section, and considers the facts at issue to be established as stated by the employee in the request.

(4) If the Secretary grants a request for an oral hearing, the Secretary—

(i) Notifies the employee in writing of—

(A) The date, time, and place of the hearing;

(B) The name and address of the hearing official;

(C) The employee's right to be represented at the hearing by counsel or other representatives;

(D) The employee's right to present and cross-examine witnesses; and

(E) The employee's right to waive the requested oral hearing and receive a hearing in the written record; and

(ii) Provides the hearing official with a copy of all written statements submitted by the employee with the request for a hearing, and all documents pertaining to the debt or the amount of the offset contained in the Department's files on the debt or submitted with the request for a hearing.

(d) *Employee choice of oral hearing or hearing on written submissions.* An employee who has been notified under paragraph (c)(4) that an oral hearing will be provided must notify the hearing official and the Secretary in writing within 10 days of the date of the notice of oral hearing—

(1) Whether the employee intends to proceed with the oral hearing, or wishes a decision based on the written record; and

(2) Any changes in the list of the witnesses the employee proposes to produce for the hearing, or the facts about which a witness will testify.

(e) *Dismissal of request for hearing.* The Secretary considers the employee to have waived the request for a hearing of any kind—

(1) If an employee does not confirm to the hearing official his or her intention to proceed with the oral hearing or request a hearing decision on written submissions within the ten days of the date of the notice of oral hearing under paragraph (c)(4) of this section; or

(2) If the employee does not appear for a scheduled oral hearing.

(Authority: 5 U.S.C. 5514; 31 U.S.C. 3716)

§ 31.6 Location and timing of oral hearing.

(a) If the Secretary grants a request for an oral hearing, the Secretary selects the time, date, and location of the hearing. The Secretary selects, to the extent feasible, the location that is most covenient for the employee.

(b) For a civilian employee or a former employee, the hearing will be held in Washington, DC, or in one of the following cities: Boston, Philadelphia, New York, Atlanta, Chicago, Dallas, Kansas City, Denver, San Francisco, or Seattle.

(c) For a current military employee, the Secretary selects the time, date, and location of the hearing after consultation with the Secretary of Defense.

(d) For a current Coast Guard employee, the Secretary selects the time, date, and location of the hearing after consultation with the Secretary of Transportation.

(Authority: 5 U.S.C. 5514; 31 U.S.C. 3716)

§ 31.7 Hearing procedures.

(a) *Independence of hearing official.* A hearing provided under this part is conducted by a hearing official who is neither an employee of the Department nor otherwise under the supervision or control of the Secretary.

(b) *Lack of subpoena authority or formal discovery.* Neither the hearing official nor the Secretary has authority to issue subpoenas to compel the production of documents or to compel the attendance of witnesses at an oral hearing under this part. The Secretary will attempt to make available during an oral hearing the testimony of a current official of the Department if—

(i) The employee had identified the official in the request for a hearing under § 33.5(b) and demonstrated that the testimony of the official is necessary to resolve adequately an issue of fact raised by the employee in the request for a hearing; and

(ii) The Secretary determines that the responsibilities of the official permit his or her attendance at the hearing.

(2) If the Secretary determines that the testimony of a Department official is necessary, but that the official cannot attend an roal hearing to testify, the Secretary attempts to make the official available for testimony at the hearing by means of a telephone conference call.

(3) No discovery shall be available in a proceeding under this part except as provided in § 31.4.

(c) *Hearing on written submissions.* If a hearing is to be held on the written submissions, the hearing official reviews the documents and responses submitted by the Secretary and the employee under § 31.5.

(d) *Conduct of oral hearing.*

(1) The hearing official conducts an oral hearing as an informal proceeding. The official—

(i) Administers oaths to witnesses;

(ii) Regulates the course of the hearing;

(iii) Considers the introduction of evidence without regard to the rules of evidence applicable to judicial proceedings; and

(iv) May exclude evidence that is redundant, or that is not relevant to those issues raised by the employee in the request for hearing under § 31.5 that remain in dispute.

(2) An oral hearing is generally open to the public. However, the hearing official may close all of any portion of the hearing if doing so is in the best interest of the employee or the public.

(3) The hearing official may condut an oral hearing by telephone conference call—

(i) If the employee is located in a city outside the Washington, DC Metropolitan area.

(ii) At the request of the employee.

(iii) At the discretion of the hearing official.

(4) No written record is created or maintained of an oral hearing provided under this part.

(e) *Burden of proof.* In any hearing under this part—

(1) The Secretary bears the burden of proving, by a preponderance of the evidence, the existence and amount of the debt, and the failure of the employee to replay the debt, as the debt is described in the pre-offset notice provided under § 31.3; and

(2) The employee bears the burden of proving, by a preponderance of the evidence—

(i) The existence of any fact that would establish that the debt described in the pre-offset notice is not enforceable by offset; and

(ii) The existence of any fact that would establish that the amount of the proposed offset would cause an extreme financial hardship for the employee.

(Authority: 5 U.S.C. 5514; 31 U.S.C. 3716)

§ 31.8 Rules of decision.

(a) *Enforceability of debt by offset.* In deciding whether the Secretary has established that the debt described in the pre-offset under § 31.3 is owed by the employee, or whether the employee has established that the debt is not enforceable by offset, the hearing official shall apply the principles in this paragraph.

(1) The statutes and Department regulations authorizing and implementing the program under which the debt arose shall be applied in accordance with official written interpretations by the Department.

(2) The principles of res judicata and collateral estoppel shall apply to resolution of disputed facts in those instances in which the debt or materiall facts in dispute have been the subject of prior judicial decision.

(3) The act or omission of an institution of higher education at which the employee was enrolled shall not constitute a defense to repayment of an obligation with regard to a grant or loan under a program authorized under Title IV of the Higher Education Act of similar authority, except to the extent that—

(i) The act of omission constitutes a defense to the debt under applicable Federal or State law;

(ii) The institution owed the employee a refund under its refund policy and failed to pay that refund to the employee or to a lender holding a loan made to the employee; or

(iii) The institution ceased teaching activity during the academic period for which the grant of loan was made, and failed to refund to the employee a proportionate share of the amount of the grant of loan used to pay tution and other institutional charges for that period.

(4)(i) A debt otherwise established as owed by the employee is enforceable by offset under this part if the Secretary sends the pre-offset notice for the debt within a period of ten years after the later of—

(A) The date on which the Secretary acquired the debt by assignment or referral, or

(B) The date of a partial payment reaffirming the debt.

(ii) Periods during which the statute of limitations has been tolled under 11 U.S.C. 108, 28 U.S.C. 2416, 50 U.S.C. App. 525, or other applicable law, are excluded from the calculation of the ten year period under paragraph (a)(4)(i) of this section.

(b) *Extreme financial hardship.* (1) In deciding whether an employee has established that the amount of the proposed offset would cause extreme financial hardship to the employee, the hearing official shall determine whether the credible, relevant evidence submitted demonstrates that the proposed offset would prevent the employee from meeting the costs necessarily incurred for essential subsistence expenses of the employee and his or her spouse and dependents.

(2) For purposes of this determination, essential subsistence expenses include costs incurred only for food, housing, clothing, essential transportation and medical care.

(3) In making this determination, the hearing official shall consider—

(i) The income from all sources of the employee, and his or her spouse and dependents;

(ii) The extent to which the assets of the employee and his or her spouse and dependents are available to meet the offset and the essential subsistence expenses;

(iii) Whether these essential subsistence expenses have been minimized to the greatest extent possible;

(iv) The extent to which the employee and his or her spouse and dependents can borrow to satisfy the debt to be collected by offset or to meet essential expenses; and

(v) The extent to which the employee and his or her spouse and dependents have other exceptional expenses that should be taken into account, and whether these expenses have been minimized.

Authority: 5 U.S.C. 5514; 31 U.S.C. 3716)

§ 31.9 Decision of the hearing official.

(a) The hearing official issues a written opinion within sixty days of the date on which the debtor filed a request for a hearing under § 31.5, unless a delay

in the proceedings has been granted at the request of the debtor. In the opinion, the hearing official states his or her decision and the findings of fact and conclusions of law on which the decision is based.

(b) If the hearing official finds that a portion of the debt described in the pre-offset notice under § 31.3 is not enforceable by offset, the official shall state in the opinion that portion which is enforceable by offset.

(c) If the hearing official finds that the amount of the offset proposed in the pre-offset notice will cause an extreme financial hardship for the employee, the hearing official shall establish an offset schedule that will result in the repayment of the debt in the shortest period of time without producing an extreme financial hardship for the employee.

Authority: 5 U.S.C. 5514; 31 U.S.C. 3716)

§ 31.10 Request for repayment agreement.

(a) The Secretary does not inititate an offset under this part if the employee agrees in writing to repay the debt under terms acceptable to the Secretary and makes the first payment due under the agreement on or before the latest of—

(1) The seventh day after the date of the decision of the hearing official, if the employee timely requested a hearing under § 31.5 (a) and (d);

(2) The sixty-fifth day after the date of the pre-offset notice under § 31.3 if the employee did not timely request either a hearing under § 31.5 (a) and (d) or an opportunity to inspect and copy records of the Department under § 31.4; or

(3) The fifteenth day after the date on which the Secretary made available relevant documents regarding the debt, if the employee filed a timely request for documents under § 31.4.

(b) In the agreement, the Secretary and the employee may agree to satisfaction of the debt from sources other than an offset under this part, or may modify the offset amounts proposed in the pre-offset notice or established in the decision of the hearing official.

(c) If the debtor does not enter into a satisfactory repayment agreement within the deadlines set in this section, the Secretary may initiate an offset under this part. The Secretary continues to collect by offset until a debtor enters in a satisfactory repayment agreement for the debt.

Authority: 5 U.S.C. 5514; 31 U.S.C. 3716)

§ 31.11 Offset process.

(a) The Secretary attempts to collect debts under this part within the shortest time authorized under—

(1) The offset schedule proposed in the pre-offset notice, unless modified by agreement or decision of a hearing official;

(2) A written repayment agreement with the employee; or

(3) The offset schedule established in the decision of the hearing official.

(b) In proposing an offset schedule under § 31.3 or establishing a repayment agreement under § 31.10, the Secretary also considers the anticipated period of Federal employment of the employee.

(c) Unless the Secretary determines, in his discretion, to delay collection, the Secretary effects an offset under this part—

(1) According to the terms agreed to by the employee pursuant to a timely request under § 31.10 to enter into a repayment agreement; or,

(2) After the expiration of the periods listed in § 31.10(b) for requesting a repayment agreement with the Secretary.

(d) If the employee retires or resigns or his or her employment ends before collection of the debt is completed, the Secretary collects the amount necessary to satisfy the debt by offset from subsequent payments of any kind, including a final salary payment or a lump sum annual leave payment, due the employee on the date of separation. If the debt cannot be satisfied by offset from any such final payment due the employee on the date of separation, the Secretary collects the debt from later payments of any kind due the employee in accordance with the provisions of 4 CFR 102.4.

(e) The Secretary effects an offset under this part against payments owing to an employee of another Federal agency after completion of the requirements of this part, in accordance with the provisions of 5 CFR 550.1108.

(Authority: 5 U.S.C. 5514; 31 U.S.C. 3716)

[FR Doc. 88-9428 Filed 4-27-88; 8:45 am]

BILLING CODE 4000-01-M

federal register

Thursday
April 28, 1988

Part III

Department of Education

Office of Special Education and Rehabilitative Services

Rehabilitation Long-Term Training Program; Notice of Final Funding Priority for Fiscal Year 1988

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Rehabilitation Long-Term Training Program

AGENCY: Department of Education.

ACTION: Notice of final funding priority for fiscal year 1988.

SUMMARY: The Secretary announces a funding priority for long-term training grants in the field of Rehabilitation Counseling to ensure effective use of program funds and to direct funds to an area of identified training need during fiscal year 1988. The Secretary reserves funds for applications meeting this priority.

EFFECTIVE DATE: This final funding priority takes effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of the final funding priority, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Delores Watkins, Division of Resource Development, Office of Developmental Programs, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, Department of Education, 400 Maryland Avenue SW. (Switzer Building, Room 3322–MS 2312), Washington, DC 20202. Telephone: (202) 732–1349.

SUPPLEMENTARY INFORMATION: Grants for the Rehabilitation Training Program are authorized by Title III, section 304 of the Rehabilitation Act of 1973, as amended. Program regulations for the Rehabilitation Long-Term Training Program are established at 34 CFR Part 386. The purpose of the Rehabilitation Long-Term Training Program is to support projects designed to increase the supply of qualified personnel available for employment in public and private agencies and institutions involved in the vocational and independent living rehabilitation of physically and mentally handicapped individuals, especially those who are the most severely handicapped.

Awards are made under this program to State vocational rehabilitation agencies and other public and private or nonprofit agencies or organizations, including institutions of higher education.

On February 9, 1988 the Secretary published a notice of proposed funding priority for this program in the **Federal Register** (53 FR 3828). Except for minor technical revisions, there are no significant differences between this final priority and the proposed priority.

Final Priority

In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference to long-term training applications submitted in the field of Rehabilitation Counseling in fiscal year 1988 that respond to the priority described below. An absolute preference is one which permits the Secretary to select only those applications that meet the described priority.

Applications must be submitted in the long-term training field of Rehabilitation Counseling to provide pre-employment training at the master's degree level, and must be designed to improve and strengthen the capacity of rehabilitation counselors to serve and place severely disabled individuals in employment, especially competitive employment. The training must directly involve students with business and industry in providing rehabilitation services, especially placement services, to severely physically and mentally disabled individuals. The coursework must be designed to provide students with skills and knowledge in: (1) Interpreting diagnostic, psychological, and educational background information to assess the functional capacities of, and do vocational planning for, disabled individuals, including traumatically brain-injured individuals, chronically mentally ill individuals, and learning-disabled individuals; (2) planning effective rehabilitation programs for, and delivering rehabilitation services to, disabled individuals, including traumatically brain-injured individuals, chronically mentally ill individuals, and learning-disabled individuals; (3) job development, job modification, and job restructuring; (4) workers' compensation programs; (5) providing services to disabled individuals to facilitate their transition from school to employment; (6) providing supported employment services to disabled individuals; (7) the applicability of sections 501, 502, 503 and 504 of the Rehabilitation Act and their implications for placement of disabled individuals; (8) utilizing rehabilitation engineering resources; (9) the services available under the Client Assistance Programs; and (10) consulting with employers and potential employers to identify employment opportunities for disabled individuals, to educate and train employers in identifying and removing barriers to the employment of disabled individuals, and to educate or train employers and potential employers about various disabilities and the vocational implications of those disabilities. Practicum training must involve students directly with business and industry in developing jobs for and placing disabled individuals in competitive employment. The practicum training may include actual student experiences in business and industry settings.

(29 U.S.C. 774)

(Catalogue of Federal Domestic Assistance No. 84.129, Rehabilitation Training Program)

Dated: April 8, 1988.

William J. Bennett,

Secretary of Education.

[FR Doc. 88–9429 Filed 4–27–88; 8:45 am]

BILLING CODE 4000–01–M

Reader Aids

Federal Register

Vol. 53, No. 82

Thursday, April 28, 1988

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-5237

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3408
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Library	523-5240
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, APRIL

10519-10868 1
10869-11030 4
11031-11238 5
11239-11486 6
11487-11632 7
11633-11814 8
11815-11990 11
11991-12136 12
12137-12370 13
12371-12508 14
12509-12670 15
12671-12758 18
12759-12908 19
12909-13096 20
13097-13234 21
13235-13398 22
13399-14772 25
14773-15010 26
15011-15192 27
15193-15346 28

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
5784 10519
5785 10521
5786 10523
5787 11031
5788 11489
5789 11809
5790 11811
5791 11813
5792 12365
5793 12367
5794 12369
5795 12671
5796 12673
5797 13094
5798 13235
5799 13237
5800 14773

Executive Orders:
12634 11041
12635 12134
12636 13239

Administrative Orders:
Memorandums:
Mar. 31, 1988 11039
Notices:
Apr. 25, 1988 15011
Presidential Determinations:
No. 88-10 of February 29, 1988 11487

4 CFR

Proposed Rules:
7 15043

5 CFR

630 14775
831 11633
842 11633
1001 13097
1633 11815

Proposed Rules:
300 13121
531 13121
1632 11864
2431 10885

7 CFR

2 ..... 11636, 15013
300 10525
301 ..... 11825, 13241
318 12909
340 12910
400 10526
401 15013-15016
426 12759
437 15016
724 12675
725 12675
726 12675
810 15016
907 ..... 12371, 14776
908 ..... 12371, 14776
910 ..... 10527, 11636, 12509, 13242
911 ..... 11830, 13217
916 15193
917 ..... 11832, 15193
929 12373
946 11043
981 12374
1032 11637
1064 11590
1126 11638
1421 11239
1864 13098
1927 13098
1940 14777
1944 ..... 13243, 13244
1951 13098
1955 13098
1956 13098
1965 13244
3600 11639
3601 11639

Proposed Rules:
6 11091
11 13125
53 10545
54 10545
401 12774
449 ..... 11299, 15045
916 12687
917 ..... 11669, 12691, 13413
918 11867
920 15227
929 15045
946 12423
949 10887
959 13413
981 15046
985 15048
1030 10894
1033 14804
1046 14804
1065 12424
1106 11092
1497 11474
1498 11474
1530 11098
1550 13125
1700 11511
1701 10545
1710 15228
1900 12695
1944 14810
1980 12695
3403 13048

8 CFR

100 15194

Proposed Rules:
3 11300

208 ... 11300
236 ... 11300
242 ... 11300
253 ... 11300

9 CFR

11 ... 14778
77 ... 11491, 12913
92 ... 11043, 12640
307 ... 13396
350 ... 13396
351 ... 13396
352 ... 13396
354 ... 13396
355 ... 13396
362 ... 13396
381 ... 13396

Proposed Rules:

78 ... 12019

10 CFR

51 ... 13399
430 ... 10869
600 ... 12137
1010 ... 11240, 12497

Proposed Rules:

2 ... 11310, 14811
40 ... 13128
50 ... 11311, 12425
76 ... 13276
140 ... 15049

12 CFR

202 ... 11044
205 ... 11046
207 ... 15195
220 ... 15195
221 ... 15195
224 ... 15195
226 ... 11047, 11055, 13379
229 ... 11832
265 ... 11640, 12509
547 ... 13105
548 ... 13105
549 ... 13105
563 ... 11242, 11243, 13105
569a ... 13105
569b ... 13105
569c ... 13105
611 ... 12140
615 ... 12140

Proposed Rules:

220 ... 14812
522 ... 13282
541 ... 13282
542 ... 13282
543 ... 13282
544 ... 13282
545 ... 13282
547 ... 13282
548 ... 13282
549 ... 13282
563 ... 13131, 13133, 13282, 15230
569a ... 13282
569b ... 13282
569c ... 13282
571 ... 13133, 13282
588 ... 13133

13 CFR

308 ... 12510
309 ... 13252

Proposed Rules:

121 ... 15232

14 CFR

Ch. III ... 11004
21 ... 13113, 14782, 15017
23 ... 13113, 14782
39 ... 11246, 11641–11643, 11837, 11838, 12141, 12376, 12511, 12914, 12915, 13114, 13252, 14784, 14786, 15017
71 ... 10528, 11020, 11060, 13253
73 ... 11061, 11839–11841, 12916–12918, 13115, 13116, 13253, 15021
75 ... 14787
97 ... 11062, 12377
121 ... 12358, 14888
135 ... 12358, 14888

Proposed Rules:

Ch. I ... 11868
21 ... 11869, 13283
23 ... 11869, 13283
27 ... 10826, 11162
29 ... 10826, 11162
39 ... 11674–11676, 11678, 11871, 12427, 12947, 13285, 13286, 14813, 14814, 15057
71 ... 10546, 11100, 11101, 12866, 12947, 13287, 14816, 14817
73 ... 11102
298 ... 12774

15 CFR

370 ... 12668
371 ... 12668
373 ... 12668
378 ... 12668
379 ... 12668
385 ... 12668
399 ... 12668
806 ... 15197

Proposed Rules:

7 ... 12880
303 ... 13414

16 CFR

13 ... 11247, 12379

Proposed Rules:

13 ... 12534

17 CFR

30 ... 11491
200 ... 12412, 12918
229 ... 12924
230 ... 11841, 12918, 15022
239 ... 12918
240 ... 11841, 12924
249 ... 12924
270 ... 15022
274 ... 15022

Proposed Rules:

Ch. IV ... 12428
140 ... 13288
150 ... 13290
200 ... 12429
229 ... 12948
249 ... 12948

18 CFR

2 ... 15198
37 ... 11191, 12931
154 ... 11191, 13254, 14787, 15023
157 ... 11644, 11845, 15023
260 ... 15023
284 ... 14922, 15023, 15198
385 ... 15023
388 ... 15023
389 ... 12676, 12677

Proposed Rules:

272 ... 12704
274 ... 12704
284 ... 14923, 15061
385 ... 15061

19 CFR

7 ... 12143
103 ... 12937

20 CFR

10 ... 11594
416 ... 12938, 13254

Proposed Rules:

10 ... 11596

21 CFR

173 ... 15199
178 ... 15199
179 ... 12756
184 ... 11247
193 ... 12942
340 ... 11731
349 ... 13217
369 ... 13217
430 ... 13400
436 ... 13400
442 ... 13400
444 ... 12644, 12658
452 ... 12414
510 ... 11492
520 ... 11063
522 ... 11064, 11493
524 ... 11064, 12512, 13217
540 ... 11492
558 ... 11065, 11251, 14788, 14888
561 ... 11938, 12640, 12942
610 ... 12760
640 ... 12760
660 ... 12760
800 ... 11251
803 ... 11251
807 ... 11251
808 ... 11251
809 ... 11251
812 ... 11251
813 ... 11251
820 ... 11251
860 ... 11251
861 ... 11251
862 ... 11645
864 ... 11251
866 ... 11251
876 ... 11251
895 ... 11251
1002 ... 11251
1005 ... 11251
1010 ... 11251
1020 ... 11251
1030 ... 11251
1040 ... 11251
1050 ... 11251
1308 ... 10834, 10861, 10869

Proposed Rules:

133 ... 11312
172 ... 13134
175 ... 11402
176 ... 11402
177 ... 11402
178 ... 11402
193 ... 11938
332 ... 12778
357 ... 12779
561 ... 11313
868 ... 13296

22 CFR

120 ... 11494, 12099
121 ... 11494, 12099
122 ... 11494, 12099
123 ... 11494, 12099
124 ... 11494, 12099
125 ... 11494, 12099
126 ... 11494, 12099
127 ... 11494, 12099
128 ... 11494, 12099
514 ... 10528
602 ... 10529
706 ... 11992

Proposed Rules:

204 ... 11872
602 ... 12430

23 CFR

650 ... 11065
657 ... 12766
658 ... 12145
771 ... 11065
1204 ... 11255
1205 ... 11255

Proposed Rules:

625 ... 11875
626 ... 11875
1309 ... 11679

24 CFR

50 ... 11224
200 ... 11270, 13404
201 ... 11997, 13405
203 ... 10529, 11997, 13404, 13405
204 ... 13404
213 ... 13404
220 ... 13404
221 ... 11224, 13404
222 ... 13404
226 ... 13404
227 ... 13404
234 ... 11997, 13405
235 ... 13404, 14789
236 ... 11224
237 ... 13404
240 ... 13404
241 ... 11224
248 ... 11224
888 ... 13406, 14954

Proposed Rules:

35 ... 11164
200 ... 11164, 12431
510 ... 11164
511 ... 11164
570 ... 11164
882 ... 11164
886 ... 11164
888 ... 12278
941 ... 11164
965 ... 11164
968 ... 11164

25 CFR

61 ... 11271

26 CFR

1 ... 11002, 11066, 11162, 11731, 12000, 12149, 12513, 12677, 12678, 13464, 15200
26 ... 13464
602 ... 11066, 11162, 11731, 12000

Proposed Rules:
1 ..... 11103, 11876, 12433, 12534, 12705, 15234
26 13464
26a 13464
602 13464

27 CFR

Proposed Rules:
4 12024
12 12024

28 CFR

0 ..... 10870, 10871, 11645
66 12099
71 11645
Proposed Rules:
16 12151

29 CFR

102 10872
1907 12102
1910 ..... 11414, 12102, 15033
1915 15033
1917 15033
1918 15033
1926 15033
2610 10530
2622 10530
2644 10531
2676 12514
Proposed Rules:
516 ..... 11590, 12497, 15063
530 ..... 11590, 12497, 15063
1404 12952
1910 11511
1915 11511
1917 11511
1918 11511
2550 11886
2580 11886

30 CFR

48 12415
75 11395
250 ..... 10596, 12227
256 ..... 10596, 12227
773 11606
934 11500
Proposed Rules:
20 12250
75 12250
77 ..... 12250, 12253
702 13415
750 15064
785 11685
823 11685
935 ..... 11887, 12705
948 11888

31 CFR

Proposed Rules:
103 11513

32 CFR

105 15205
199 13258
388 10876
706 12515
Proposed Rules:
45 12034

33 CFR

84 10532
95 13117
100 ..... 11502, 12415, 13118
117 ..... 10533, 10534, 12416, 12417
165 ..... 12417, 12679, 13118, 13119, 13407, 15206
173 13117
177 13117
209 14902
335 14902
336 14902
337 14902
338 14902
Proposed Rules:
100 ..... 11515, 12434, 12706, 14888
110 ..... 11395, 11515
117 ..... 11516, 11517, 12434, 12535, 12707, 12708, 15235
173 13417
174 13417

34 CFR

99 11942
600 11208
657 10820
668 11208
Proposed Rules:
31 15336
105 10808

35 CFR

103 12516

36 CFR

211 13263
223 15035
1202 12150
1228 13407
1258 12150
Proposed Rules:
228 15236

37 CFR

10 13120

38 CFR

17 13120
36 11502

39 CFR

Proposed Rules:
111 11685

40 CFR

22 12256
24 12256
27 15182
52 ..... 11068, 11273, 11655, 11847, 12417, 12896, 13121
60 ..... 11590, 12008, 12009, 14888, 12498, 12517
61 12517
180 ..... 11071, 11274, 11938, 12151, 12418, 12640, 12943, 15039, 15040, 15207
228 12944
261 ..... 13282, 15170
300 12680
372 12748
704 12522
707 12522
710 12522
712 12522
716 12522
717 12522
720 12522
721 12522
723 12522
750 12522
761 12522
763 12522
790 12522
796 12522
797 12522
799 12522
Proposed Rules:
50 14926
51 14926
52 ..... 11314, 11686, 11688, 12161, 12435, 12906, 12962, 13135, 14818, 15064
58 14818
60 12962
116 11889
117 11889
148 14892
180 ..... 10895, 15237, 15238
261 12162
264 11742
265 11742
268 11742
271 11742
302 ..... 11889, 11890, 12868
355 12868
372 12035
761 11104
763 10546
795 12748
796 11104
799 12748

41 CFR

101-25 11847
101-40 11849
101-49 12766
Proposed Rules:
201-33 11518

42 CFR

57 ..... 14789, 14792
405 ..... 11504, 12010, 12945
406 12945
409 12945
410 12945
413 ..... 12016, 12641, 12945
416 ..... 11504, 12945
418 11504
421 12945
434 12010
435 12681
436 12681
442 11504
482 11504
489 12945
498 12945
Proposed Rules:
405 ..... 12037, 12641
412 12641
413 12641
489 12641

43 CFR

4 13266
Proposed Rules:
3160 11318
Public Land Orders:
6670 10535
6671 12419
6672 12420
6673 12420
6674 15041

44 CFR

61 15208
62 ..... 15208, 15219
64 ..... 13268, 14795, 14798
67 ..... 11510, 12152
80 11275
82 11275
83 11275
205 12681
Proposed Rules:
61 10547
67 ..... 12536, 15066

45 CFR

36 11279
79 11656
96 11656
1611 12017
Proposed Rules:
303 12041
606 10896
1356 12436

46 CFR

26 13117
35 13117
78 13117
97 13117
109 13117
185 13117
197 13117
502 13270
572 11072
Proposed Rules:
Ch. I 11440
252 14821
282 14822
502 12440

47 CFR

Ch. 1 13270
0 11849
1 11851
2 ..... 10878, 11855
15 11861
22 11855
43 12526
63 12526
73 ..... 11668, 11863, 12152, 12154, 12528, 12768-12770, 12946, 13272, 13409, 14802, 15221, 15224
74 ..... 14802, 15225
90 ..... 11849, 12154
94 11855
Proposed Rules:
Ch. I 10549, 10550
22 14823
43 12546
63 12546
68 12546
73 ..... 10905, 11690, 12167-12169, 12547-12549, 12779, 12963, 12964, 13419-13422, 14824, 15239, 15241
97 12780

48 CFR

15 10828
25 ..... 12128, 14888
31 ..... 10828, 12128, 13274, 14888
52 ..... 10828, 12128, 14888
215 11073
227 10780
242 11073

252 ..... 10780, 11073
439 12748
452 12748
733 13410
1033 12770
1801 13056
1807 13056
1815 13056
1819 13056
1822 13056
1825 13056
1827 13056
1829 13056
1832 13056
1836 13056
1837 13056
1842 13056
1849 13056
1851 13056
1852 13056
1853 13056
1870 13056
2804 ..... 12421, 12866
2832 12421
2852 12421

Proposed Rules:

43 11795
47 11795
52 ..... 11795, 12501
916 11318
931 11318
952 11318
1505 11519
1506 11519

49 CFR

387 12158
533 11074
541 13274
571 ..... 11280, 12528
1160 10536

Proposed Rules:

171 ..... 11320, 12442
172 12442
173 ..... 11320, 12442
174 12442
175 12442
176 12442
177 ..... 11618, 12442
178 12442
179 12442
192 10906
383 12504
391 12504
531 15241
571 ..... 11105, 15067
840 11520
1185 12443

50 CFR

14 15041
17 ..... 10879, 11609, 11612
23 12497
285 11510
301 10536
611 13410
672 11297
675 12772

Proposed Rules:

17 ..... 12787, 13220–13230, 13379
18 12043
228 12169
611 13422
644 11321
650 12709
653 12790
658 12046
680 14824
683 12712

LIST OF PUBLIC LAWS

Last List April 27, 1988

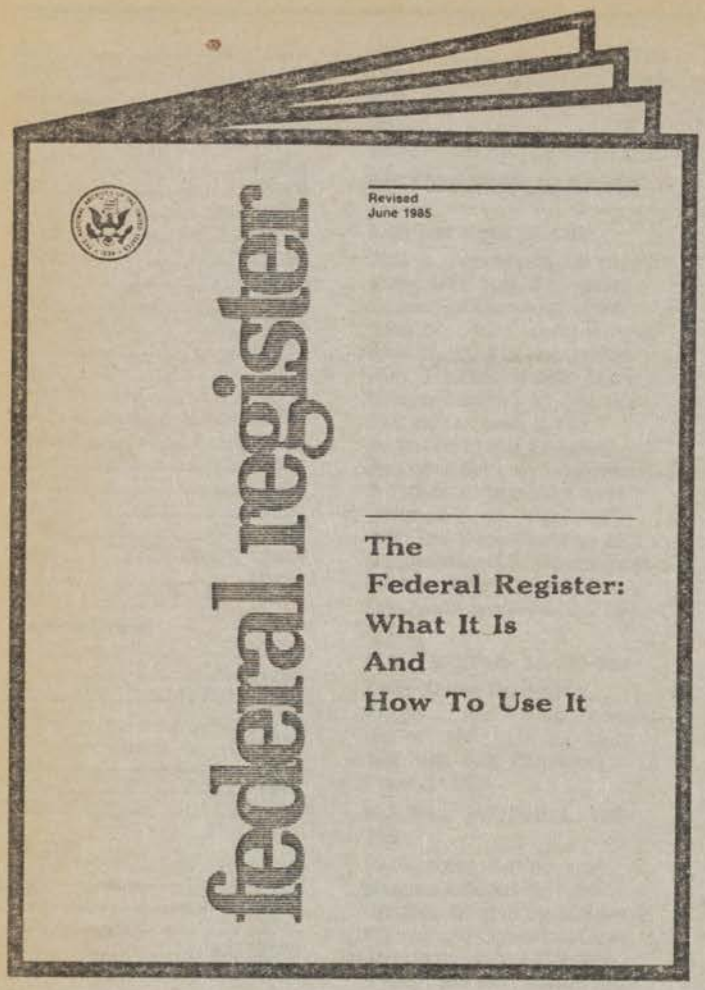
This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 1900/Pub. L. 100-294

Child Abuse Prevention, Adoption, and Family Services Act of 1988. (Apr. 25, 1988; 102 Stat. 102; 25 pages) Price: $1.00

H.J. Res. 347/Pub. L. 100-295

Recognizing the identical plaques initiated by Sami Bandak, created by Margareta Hennix and Ginvanni Bizzini, and depicting the Calmare Nyckel, the ship that brought the first Swedish settlers to North America, as significant symbols of the "Year of New Sweden"; and providing for the placement of one of such plaques at Fort Christina in the State of Delaware. (Apr. 25, 1988; 102 Stat. 127; 2 pages) Price: $1.00



Announcing the Latest Edition

The Federal Register: What It Is and How to Use It

A Guide for the User of the Federal Register—Code of Federal Regulations System

This handbook is used for the educational workshops conducted by the Office of the Federal Register. For those persons unable to attend a workshop, this handbook will provide guidelines for using the *Federal Register* and related publications, as well as an explanation of how to solve a sample research problem.

Price $4.50

Order Form

Mail To: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402

Enclosed is $ _____ ☐ check, ☐ money order, or charge to my Deposit Account No.

☐☐☐☐☐☐☐ – ☐

Order No. _____

Master Card and VISA accepted.

VISA MasterCard

Credit Card Orders Only

Total charges $ _____

Fill in the boxes below

Customer's Telephone Nos.

Area Code Home Area Code Office

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month / Year ☐☐☐☐

Charge orders may be telephoned to the GPO order desk at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time Monday Friday (except holidays)

Please send me _____ copies of **The Federal Register - What It Is and How To Use It,** at $4.50 per copy, Stock No. 022-003-01116-1

Please Print or Type

Name - First, Last

Company name or additional address line

Street address

City State ZIP Code

(or Country)

(Rev. 11 – 85)